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REGIONAL MIGRATION REPORT: SOUTH CAUCASUS

Edited by:

Anna Bara, Anna Di Bartolomeo, Zuzanna Brunarska,
Shushanik Makaryan, Sergo Mananashvili, and Agnieszka Weinar

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The **CARIM-East project** is the first migration observatory focused on the Eastern Neighbourhood of the European Union and covers all countries of the Eastern Partnership initiative (Belarus, Ukraine, the Republic of Moldova, Georgia, Armenia and Azerbaijan) and Russian Federation.

More information about CARIM-East and links to an electronic version of this file, which is available free of charge, may be found on the project website at www.carim-east.eu

For queries regarding this publication, please contact the MPC at mpc@eui.eu

CONTACTS

Migration Policy Centre

Robert Schuman Centre for Advanced Studies
European University Institute
Via delle Fontanelle 19
I-50014 San Domenico di Fiesole (FI)
Italy

Tel: (+39) 055 4685 817

Fax: (+39) 055 4685 770

Email: mpc@eui.eu

MPC website: www.migrationpolicycentre.eu

CARIM-East website: www.carim-east.eu



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FOREWORD

Human mobility in the South Caucasus is a dynamic phenomenon that has been changing social, economic and even political realities there. The three countries considered in the present report, namely, Armenia, Azerbaijan and Georgia, have been through very different post-communist transitions, which have influenced the conditions for short- and long-term migration to, from and across their territories.

Following the wider patterns of most states emerging from the collapse of the Soviet Union, all three countries saw patterns of mass emigration in the 1990s. The escalation of conflicts (in Nagorno-Karabakh and South Ossetia/Abkhazia) only exacerbated the intensity of flows. This escalation also created numerous groups of Internally Displaced Persons (IDPs) and refugees. The perpetual presence of these groups in South Caucasus is a stable element of the migratory landscape of the region.

All three countries have had negative migration balances since 1991, and they still tend to be countries of emigration rather than immigration. But, in the last decade, the available data show some discrepancies between them: while in Armenia and Georgia there is a clear negative migration balance that increases, Azerbaijan has tended to have a balance that oscillates around 0 since 2003. The bulk of migrants from all three countries are circular and temporary male workers, who go predominantly to the Russian Federation. The flow direction is related not only to cultural and linguistic affinities from the Soviet era, but most importantly, to the relatively low cost of such mobility: a visa-free regime (albeit only for Armenia and Azerbaijan); geographic distance; and easy access to jobs in the shadow economy. Another emerging destination is Turkey, for similar reasons. It must be noted, however, that the political and legal situation can swiftly change matters, as has been the case since late 2008. Since then fewer Georgians have moved towards Russia and more have chosen Turkey, instead. The European Union is not an important recipient of flows in the region.

Given changing migration realities, the South Caucasian countries have engaged, to a different extent, in the development of migration policies. The countries are late-comers to international debates on migration policies, especially among the other Council of Europe members. All three countries are part of the EU neighbourhood Policy and Eastern partnership initiative.

Following the initial focus on the issue of international protection, since the late 1990s, Armenia and Georgia have dynamically developed their migration legislation. This includes not only accession to the main international instruments governing human rights in the specific context of mobility, but also investing in policy learning through cooperation with external actors, such as the European Union and its member States, the US and Canada. Cooperation with the EU on migration has evolved after the Armenian and Georgian governments announced European integration as the economic and political goal of the countries. The main focus has been on border management issues, the fight against people smuggling and human trafficking, as well as on managing return and readmission. Diaspora policies are also slowly gaining momentum, in the context of international migration and the development agenda. Cooperation with the EU has been strengthened through the establishment of the EU Mobility partnerships in these countries, as well as the signing of readmission and visa facilitation agreements.

Azerbaijan is a clear exception to this rule. The country is party to several international instruments, but Azerbaijan has not prioritised migration for a long time and has been developing its own approach in this field. The policy directions have been very recently codified in the Migration Code. Diaspora issues are addressed through limited policies strengthening the brain circulation of highly-skilled Azeri.

South Caucasus is a region of relatively high instability with frozen conflicts and constant geopolitical struggles. Each political decision naturally influences migration dynamics: the volume,

the character and, of course, the direction. The present report testifies to this ever changing reality and offers a solid basis for understanding its dynamics.

We gathered here the fruits of over two years work carried out by the CARIM-East network of correspondents. We propose a collection of informative chapters on various migration topics, developed from three perspectives: demographic, legal and socio-political. We can only hope that it will help the reader to understand the impact of migration and mobility in the region.

Anna Bara
Anna Di Bartolomeo
Zuzanna Brunarska
Shushanik Makaryan
Sergo Mananashvili
Agnieszka Weiner

CHAPTER 1

Statistical Data Collection on Migration

**Statistical Data Collection
on Migration in Armenia**

RUBEN YEGANYAN

Demographic and Economic Module

Introduction

Data on international migration movements to and from the Republic of Armenia (RA) is mainly collected by:

- The National Statistical Service;
- Armenian police departments;
- The Border Electronic Management Information System (BEMIS);
- Various governmental, public and social organizations in cooperation with international organizations (as e.g. UNDP, UNFPA, IOM, ILO, OSCE).

1. Detailed description of migration sources

In the RA the main data sources on migration are:

- Population census;
- Population Register;
- Migration records;
- Crossing border records;
- *Ad hoc* surveys.

1.1 Population census

According to the RA law “On population census”, the census is carried out by the National Statistical Service every 10 years. Since independence, two population censuses were thus conducted (2001-2011).

Materials from the first census were published in 2003 in 12 volumes. In the first volume indicators for the country as a whole were presented; in other volumes there were indicators for separate administrative units of the country: the capital city of Yerevan and the ten marzer (regions). All these materials are available on the National Statistical Service website together with a 10% sample database, the latter allowing for secondary data processing.

Among the 32 census questions, 10 were directly or indirectly related to migration:

- question 2: it allows to classify the population into 1. permanent resident population; 2. temporary resident population and 3. temporary absent population. To determine the two latter populations, a 12-month time division was used. Unfortunately, information is published only on the size and characteristics of the permanent resident population;¹
- questions 3/4/5: they touch on, respectively, duration and reason of temporary presence/absence, country where temporarily absents live;
- question 10/11: it allows to identify migrants according to the “country of birth” and “country of citizenship” criteria. However, no detailed information others than sex and age is currently available;
- questions 14/15/16/17: these four questions concern mobility patterns in a broad sense. They respectively ask “Have you been living in this locality since birth?”; “If starting since 1988

¹ It is worth mentioning as household members absent for more than 12 months were also recorded. In principle, this would allow to detect valuable information on Armenians who left the country in the 1990s, who are still considered as household members. Unfortunately, this information has been not processed, yet.

you have changed your place of residence, indicate if you have been forced to change and if so which country you have left?"; "Which is your previous place of residence?"; "How long have you been continuously living here (since which year)?". Unfortunately, little information derived from these questions had been published and the level of data disaggregation by sex, age and socio-economic characteristics is quite unsatisfactory.

This source has many advantages and drawbacks. As for the advantages, it is provided with reliable quantitative and structural data on migrants, meaning the monitoring and evaluation of migration processes in time. Moreover, it is available also for secondary processing. As for the drawbacks, it should be noted that this source contains outdated information, and also that this information is not detailed enough in data processing terms.

1.2. Population Register

The State Population Register was established following the adoption of the relevant RA law in 2002. Currently, it functions as a part of the Passport and Visa Department of the Armenian police and little cooperation is observed between this Department and the authorities of the Armenian National Statistical Institute. Essentially, their interaction is limited to issuing and receiving immigrants' and emigrants' statistical record coupons.

The main limitation of this source is that it only provides for the possibility and for the procedure of registration at a place of permanent residence (*de iure* population) by excluding the possibility to register at a temporary place of residence (*de facto* population).² Moreover, the procedure of registration and deregistration is complicated so that migrants rarely inform authorities about any change in their permanent place of residence. This primarily means a significant underestimation in emigration and immigration flows, the latter being mainly composed of return migrants.

Theoretically, the State Population Register should also provide information on the migrant stock at a given point in time. However, taking into account that its establishment has not been completed yet, that the underestimation of migrants is considerable, and that temporary stayers are not recorded, their practical significance is slight.

To summarize, given the limited availability and low reliability of this source, the Population census remains the only source of data on the stock of permanent and temporary migrants living in Armenia.

1.3 Migration records

The State Population Registry and the Passport and Visa Department of the Armenian police are also responsible for managing migration records. Registration is based on the voluntary statements of migrants themselves.

Specifically, according to the mentioned law:

- International immigrants (all individuals who come to Armenia for 6 months or more) declare their arrival in the State Population Register and fill out the statistical record coupon for arrival;
- International emigrants (all persons who want to leave Armenia for 6 months or more) declare their departure in the State Population Register and fill out the statistical record coupon for

² The law requires that everyone shall, within 7 days, inform the authorities about any change in permanent place of residence. The act introduces the following definition of this notion: "The permanent place of residence is regarded as the location where a dweller declares to reside". As such it is not necessary for an individual to really reside there. As regards the temporary criteria of duration to define a permanent place of residence, they are not precisely designated in the RA act on the State Population Register.

departure. Alternatively, they can register in the Armenian Consular Service in the destination country. The Consular Service will then pass the information to the State Population Register via the Ministry of Foreign Affairs;

- Once a month, the State Population Register passes the statistical record coupons for arrivals and departures to the Armenian National Statistical Service which publishes this information annually.

Statistical record coupons contain the following details: name, surname, date and place of birth, sex, nationality and country of citizenship, place of registration, place of work and profession, unemployment status, education, family status, purpose of movement, sex and age of accompanying children under the age of 16. In addition to the above items, in the statistical record coupons for arrivals there are the following questions: “Where are you from and when did you arrive?”, “Where are you heading?” and “When are you departing?”.

The biggest problem with this source is that it covers only a marginal part of the real arrivals and departures. According to several experts of the National Statistical Service, a second disadvantage is that migrants’ statistical record coupons are not always properly filled out. Indeed, there is often some part of the information missing. Finally and crucially, data from the source is not processed in detail and only aggregated statistics are published. Obviously, the first two disadvantages greatly reduce the practical value of data obtained from this source. On the other hand, data is fully available and, on formal request, it can be processed and provided at a disaggregate level.

1.4 Crossing border records

Records on border crossings are collected by the Border Electronic Management Information System (BEMIS) established within the National Security Service.

Registration is carried out at all border points by passport controllers. By scanning passport data, all persons crossing the border are registered. In the process of this continuous registration of passengers, the following data about each of them is obtained: name and surname, date of birth, sex, country of citizenship, place of permanent residence, date of passport issue, issuing authority and passport number.

Collected information is transmitted to BEMIS. Until 2010, only BEMIS had access and the only data transmitted to a limited number of government departments were monthly totals of arrivals and departures. One of the recipients of this data was the National Statistical Service, which used to publish it in its yearbooks. Since 2010 the situation though has changed. The National Statistical Service, having obtained limited access to the database, has processed and published the data for 2010 with a division between Armenian and foreign citizens.

The disadvantages of this source are self-evident. Its data is inaccessible and there is a lack of detailed processing, and there is also the fact that its data is not necessarily relevant for migration matters. Moreover, data is not classified by purpose of movement and thus it also includes people who move for tourism, visits to friends and relatives, etc.

1.5 *Ad hoc* surveys

Already since the mid-1990s, when there was a mass outflow of Armenians and yet official data failed to confirm this, sample surveys have been the only source of reliable information on migration. This is particularly true regarding the size of population inflows and outflows. Over the years, a number of sample surveys have dealt with migration issues. They can be grouped as follows:

- Complex migration surveys (covering the full gamut of migration movements);

- Specific migration surveys (dealing only with specific categories, i.e. labor migrants, returnees, etc.);
- Other *ad hoc* surveys which indirectly include migration issues.

Unfortunately, the first two categories do not have a clearly defined periodicity. There is also no institutional body responsible for the collection and dissemination of this data. Every organization and research group tends to act independently. There are also no uniform criteria for determining migrants. In most cases a combination of characteristics, as e.g. the purpose of movement and its estimated duration, was taken into account. In particular, due to the wide prevalence of seasonal labor migration, three months was often taken as the minimal duration.

The scope of migration-related variables varied among surveys. Naturally, in surveys where migration appeared as a secondary topic, there were fewer of them, than in pure migration surveys. In the latter, the main demographic and socio-economic characteristics concerning all respondents, for emigrants and immigrants were gathered. Dates for migration movements during the observation period and the characteristics of the last movement were also obtained: purpose, duration, geography, reasons, labor and earnings, labor and living conditions, problems and ways of solving them, relations with the local community and administrative bodies etc. Additionally, most surveys include questions concerning future migration intentions and plans.

Complex surveys are generally retrospective studies aimed at reconstructing all migration events experienced by the respondents. Random sampling is used in almost all of these surveys so that statistical inference to the whole reference population is allowed. The main merit of these *ad hoc* surveys is the fact that they provide more reliable, comprehensive and more in-depth information about migration processes in Armenia than official sources. The problem with these surveys lies in the fact that, because of differences in methodological approaches, their results are not comparable.

**The Collection of Statistical Data on
Migration in Azerbaijan**

ARIF YUNUSOV

Demographic and Economic Module

Introduction

In the post-Soviet period in Azerbaijan—especially in the 90's due to war with Armenia, and the political chaos and economic collapse after the breakup of the USSR—serious problems surrounding the statistical records of migration processes arose on the part of the State Statistical Committee (Goskomstat), the main department in this sphere in the republic. Subsequently, the situation involving records of population movement began to improve. However, problems remained. And they were largely connected to the fact that during this period in Azerbaijan, there were many other government departments besides Goskomstat working on issues related to population migration statistics: the Ministry of Labor and Social Protection of the Population, the State Committee on Refugee Affairs and Internally Displaced Persons, the State Committee on the Affairs of Azerbaijanis Living Abroad, the Ministry of Internal Affairs (MIA), the Ministry of Foreign Affairs (MFA), the Ministry of National Security (MNS), the Ministry of Health and the Ministry of Education. Each of the above ministries and committees had a special department that poorly coordinated with the others on this issue.

Only in recent years has the situation started to change a little for the better, especially after the creation of the State Migration Service (SMS) in 2007, which has a mandated function to merge state control over migration processes, including statistical records. But this process is in its early stages and for now more than 80% of the statistical data on population migration is still administered by Goskomstat.

Sources of Statistical Data on Migration

At the present time, the main sources of statistical data on migration streams to Azerbaijan are:

- Records of border crossings;
- Population registration by place of residence;
- Population census records;
- Records of aliens and stateless persons

Registration and records of **persons crossing the border** takes place on land, air, and sea border crossing points and covers both emigrants and immigrants. Border guards (who report to the MNS) make a copy of the passport of the person crossing the border, then send information on the number and nationality of the party to the MIA and to Goskomstat. At the same time, other data (sex, age, place of birth) are not taken into account. Adding to the complexity is the fact that one person can cross the border several times during the year, which makes it difficult to have real statistics on migration.

More accurate data pertaining to population movement to and from Azerbaijan can be found in the system of **population registration by place of residence**, which was famous in Soviet times as a residence permit, associated with a change of one's **place of permanent residence**.

However there are serious flaws in this system. Many Azeri citizens are not removed from the register when traveling for emigration, especially when traveling to CIS countries. But an even larger role is played by the fact that the process of removing someone from the records and registration is very difficult, and therefore emigrants prefer not to inform the authorities about any changes in their permanent place of residence, even if they are absent for several years and actually living in a different country (especially in CIS countries), traveling to the country of their official residence only episodically.

As for aliens, the situation is extremely complex. Immigrants who have come to Azerbaijan for a period up to 30 days are required to register at their place of arrival—which can be an airport, train

station, sea port etc.—and fill out the appropriate migration card. A similar procedure is set out in the law “On the Place of Residence and Registration,” which was adopted in April 1996 and entered into force in January 1997. In accordance with the law, the card consists of three pages that are meant contain all information about the arrival. The first part of the card is to remain with the border service. The alien keeps the other two parts, one of which he is to leave with law enforcement agencies when he registers at the place of arrival. The third part of the migration document is to remain with the alien and be with him during the entirety of his stay in the territory of Azerbaijan. When leaving the country, the alien gives this part of the migration card back to the border guards¹.

All this should allow for accurate control over migration streams in the country. However, the leadership of the just-created SMS nevertheless felt that this law, which had just entered into force, did not to respond to new realities and therefore this specific paragraph about the migration card has remained on paper to this day.

It is thought that other institutions should also offer statistical assistance on emigrants to Goskomstat. On one hand, the embassy and consular services of Azerbaijan should maintain **consular records** of citizens of the republic who are staying abroad. This data should then be reduced to a single form, based on the data of all diplomatic missions for a specific period of time, by special request of government agencies. However in reality this is not the case. On one hand, Azeri emigrants very rarely come into contact with embassy and consulate staff for many reasons: in European countries the majority of emigrants belong to the opposition-minded segments of the population or simply do not trust the officials. On the other, the MIA of Azerbaijan does not keep continuous statistical records based on national level data.

It is also thought that this work should be carried out by the “State Committee on the Affairs of Azerbaijanis Living Abroad.” After all, their function includes active work with Azeri emigrants. In reality they work on promoting government policies in certain countries and come into contact only with those immigrants and their organizations that are loyal to the regime. Not to mention the fact that this institution does not maintain regular statistics on the national level.

Finally, issues relating to labor emigrants are handled by the Ministry of Labor and Social Protection of the Population. However, in actuality this government institution covers only an extremely insignificant number of emigrants—i.e. those who go abroad on a work contract, mainly as doctors to Islamic Eastern countries.

In these circumstances, the only hope lies with the **population census**. In the Post-Soviet period in Azerbaijan, censuses were conducted on the basis of the president of Azerbaijan’s special decree once every ten years². After the country gained independence in 1991, two censuses were conducted—one in 1999 and one in 2009. Both times the results of the census were published in Azerbaijani and in English in 10 volumes and put onto Goskomstat’s website. While the census was being conducted, citizens of the republic were supposed to fill out a questionnaire that included 35 questions, 29 of which related directly to the individual respondent and the remaining 6—to the places and circumstances of his residence³.

However the censuses only counted the resident population, meaning those officially registered according to their place of residence. But there is no information about the present population, i.e. about those citizens who were actually in the country at the time of the census. This is a deliberate

¹ A. Mamedova. Head of the Migration Service: “The Largest Number of Immigrants Arrives to Azerbaijan from Pakistan.” May 04, 2007 <http://news.day.az/society/78721.html?crnd=148>

² On the Progress of Work in Preparation for Censuses in 2010 in the Member States of the Commonwealth of Independent States - www.cisstat.com/council/38cpcc/38cpcc-old/1/zap1.doc

³ In Azerbaijan the General Population Census is Launched, April 13, 2009 <http://www.newsru.com/world/13apr2009/prp.html>

policy because otherwise the difference between the resident and present population would yield accurate data about the emigrant population. But in that case this would be a huge blow to the government's propaganda that the economic situation in Azerbaijan is getting better all the time and that the numbers of emigrants are insignificant.

On the other hand, not all homes participated in the census. Finally, there were many cases, especially among refugees and IDPs, in which families hid the fact that one of the members of their family emigrated. All of these are very serious shortcomings that do not give the full picture with regards to emigration⁴. Things are a bit better with census materials on immigration—here the story is adequately reflected and allows for a reliable database on this specific aspect.

Conclusion

As we can see, migration statistics in Azerbaijan are not at a satisfactory level. Coverage of migrants, both of immigrants and emigrants, through existing sources of information is incomplete. In addition, the issue of migrant records is politicized in modern Azerbaijan and this also has a serious impact; one cannot treat the material from Goskomstat and the SMS as reliable information.

At the same time, there are some positive aspects. In particular, the chaos that existed in the first decade of independence and the lack of a single coordinated record of migrants has in recent years gradually started to change. There is a cause for some optimism; on August 01, 2013 the Migration Code of the Republic of Azerbaijan (RA) was adopted, which indicates the need for registration, migration records of aliens and stateless persons, and a compilation of records about their movements. Accordingly, migration records are conducted by the relevant executive agencies with the help of the Unified Migration Information System⁵.

As a result, at the present time in Azerbaijan the collection of data, the management and use of information in the area of migration is governed by the regulations “On the Interagency Automated Information-Retrieval System “Entry-Exit and Registration””. The interagency automated information-retrieval system “Entry-Exit and Registration” is a specialized state information resource. As such, the system is constantly being updated and improved. On November 02, 2013 by presidential decree, an item was added to the text on the information-retrieval system which requires citizens of the republic to present proof of identity at the ASAN service centers. Aliens and stateless citizens are required to present a document that authorizes temporary or permanent residence in the territory of Azerbaijan⁶.

At the same time, the RA Migration Code more clearly defines the system by which government agencies share information about migration with each other and establish information resources on this basis. This system includes the following:

Information Included in the System

The system includes information about: aliens and stateless persons who have violated migration laws; persons who have been granted temporary residence in the territory of Azerbaijan, immigration status or refugee status (persons seeking asylum); documents issued by law to aliens and stateless persons by

⁴ Yunusov A. Ethnic Composition of Azerbaijan (from the 1999 Census) – http://www.iea.ras.ru/topic/census/mon/yunus_mon2001.htm

⁵ Article 8.2 of the RA Migration Code.

⁶ Decree of the RA President on amendments to the RA Presidential Decree No. 744 from April 22, 2008 on the automated information retrieval system “Entry, Exit, and Registration”. November 02, 2013 - <http://www.president.az/articles/9918> (in Azerbaijani); In Azerbaijan amendments to the regulations on the automated information retrieval system “Entry, Exit, and Registration”. November, 02, 2013. <http://vesti.az/news/179746>

the RA State Migration Service; the extension of the period allowed for temporary residence of aliens and stateless persons in the territory of the RA; as well as registration by place of residence of aliens and stateless persons and permission for temporary and permanent residence.

Information Provided by the System

The System provides information about: passports and visas of aliens as well as registration when crossing the border; the registration of aliens by their place of residence and place of arrival; proof of identity issued to stateless persons living permanently in the territory of the RA for the purpose of going outside the country; aliens and stateless persons who are under criminal investigation and about whose detention a decision has been made— either charged in a criminal case or detained in a criminal case; requests for readmission; and information issued in response to data requests.

**Statistical Data Collection
on Migration in Georgia**

MIRIAN TUKHASHVILI

Demographic and Economic Module

Introduction

The national recording system for international migration in Georgia is essentially unregulated. This is due both to the complexity of migration registration and by the grave situation in the country at the time of statistics reform in Georgia.

Unfortunately, in the post-Soviet years, with economic collapse and political chaos statistical registration in the country was disrupted and even if social and economic recovery started only recently there, statistics were not relevant to the contemporary situation. As to migration flows, the strict registration of people's movement was still in effect in the first years of the post-Soviet period. Statistical services received tags from so-called "registration sheets." Migrants could not change their place of residence without applying to the passport service of the Ministry of Internal Affairs. Liberalization of people's movement given the absence of a population register made the process of registration unmanageable.

Today, few changes have been implemented to improve the data collection system. The legal basis of official statistics is extremely weak. The current law on statistics is a copy of other countries' laws. It is imperfect and does not provide the necessary information, not allowing that information to be obtained or processed properly. The abolition of statistical services in administrative regions in order to "economize" on staff and to reduce expenses on statistics substantially worsened the obtaining of primary statistical information being Georgia characterized by sharp regional differences. It is unfortunate that current statistical service is more oriented to the demands of consumers outside the country. The statistics reflecting the situation inside the country does not come close to the demands of scientists. Linkages between the Department of Statistics of Georgia and academic circles are very weak.

Against a background of general reforms, the reforms made in the system of statistics are ineffective. Its personnel are few and frequently poorly motivated. It is obvious that the statistical service is in need of legal, organizational and structural reform with functional expansion and better human resources.

Flow data sources

At present, the recording of international migration from and to Georgia is based on the registration of persons **border crossing statistics** and it is released only in the form of a migration balance. The technology of initial registration is as follows: a copy of the passport of the person crossing the border is made at a border check point, and then a copy is sent to the analytical center of the Ministry of Internal Affairs where it is counted only in the context of the number of persons and their citizenship. Then, subsequently, this information is submitted to the National Services of Statistics. Other possible information on sex, age, place of birth is not processed.

It should also be noted that the flow of migration statistics result from the universally known method of fixing the fact of border crossing, when one person crosses a border several times during a year. Many persons go abroad illegally evading border control altogether.

Moreover, in **1989-2002**, the annual volume of international migration was determined by the **population balance** between the noted years in consideration of natural increase in population. In this period the intensity of migration by years varied dramatically. It was estimated and specified by the *ad hoc* group of experts using various methods (essentially on the basis of a sample survey). This is the way that the data on emigration and immigration of all the years until 2004 were obtained. As we have noted above, since 2004, external migration is recorded only by records from border check points.

Stock data sources

The main source for estimating the international immigration stock is the 2002 **population census**. Here, a specially designed registration sheet was employed which consisted of 15 questions about emigrants. These questions were as follows: 1. kinship with the chief person in the household; 2. sex; 3. date of birth; 4. place of birth (country, city, village); 5. nationality; 6. native language (other languages); 7. citizenship (present); 8. religion; 9. level of education; 10. marital status; 11. when did he/she go?; 12. where did he/she go?, where does he/she live at present?; 13. reason for leaving the country; 14. does he/she receive material assistance from his/her family? or does his/her family receives material assistance from him/her?; 15. is he/she going to return?. As to emigration stock, Census allows to record Georgian migrants left for abroad having household member left behind. Thus, the number of emigrants is underestimated, because in the post-Soviet period the emigration of whole families was frequent, particularly among ethnic minorities. There were also many cases when family members withheld the fact that family members had emigrated for various reasons. Thus, it can be said decisively that population census did not encompass all emigrants and released data are inadequate.

Additional data sources

In order to identify the tendencies of population migration in Georgia and to specify or determine its many indicators, important *ad hoc* surveys have been carried out, some of them by the central statistical services. Among them, a survey conducted by the **TACIS program** should be singled out. This survey provided rich data obtained through the interview of 3,646 persons who went abroad or arrived in Georgia via Georgian airports, railway and international bus terminals: 2,107 persons went abroad, 1,539 persons arrived in Georgia. Through the survey the reasons for departure and arrival, the main recipient countries of migrants, goals, sex and age structure, the level of education, marital status, professional activity, citizenship and other similar points were covered.

In 2008, the National Service for Statistics carried out an *ad hoc* survey of households which gave us even richer data. The goal of this survey was to study emigrating populations or populations who had returned from emigration. It was found that only 177.5 thousand families had family members abroad. A survey was carried out in seven thousand families and on family members residing abroad. Through a special questionnaire the same number of migrants who had returned to Georgia were also studied. Rich data on labour emigration was obtained which basically coincided with the results of various private research projects.

The **Civil Registration Agency** which was recently established has reliable information on migration. However, it is still in the process of formation. This agency records the changes of residence, the granting and discontinuation of citizenship, natural increase in population, marriages and divorces and so forth. The relevant bodies of the Ministry of Refugees and Accommodation of Georgia carefully records **refugees and internally displaced persons**. Recently, there was the creation of an information database for the Georgian diaspora at the Ministry of Foreign Affairs, apparatus of the State Minister on diaspora issues. It is based on the information obtained from **consulates**.

Conclusions

To conclude, the information on population migration obtained from the statistical services of Georgia is inadequate. These statistical services need fundamental transformation and financial support. Here, great importance should be attached to qualified methodical assistance and consultations with foreign research institutions, assistance that might improve the migration registration system.

Inward migration: relevant information on sources					
Source	Institutional body in charge of collecting and diffusing data	Population of reference	Migration related variables contained in the source	Data collection methodology	Advantages (+) and drawbacks (-) compared with other sources
Georgian Population Census	National Statistics Office of Georgia.	Population census covers the immigrant population , defined as people who arrived in Georgia from another country and who have lived in Georgia for one year or more.	Population by country of birth, country of citizenship and length of residence in Georgia	Interviewing of population filling out personal questionnaires.	(+) Reliable data source with universal coverage; (-) No information on migration history.
Main info: Primary source; universal data collection; stock data					
Periodicity: roughly every 10 years: 1959, 1970, 1979, 1989, 2002					
Current registration of refugees	Ministry of Refugees and Accommodation of Georgia (MRA).	It covers refugees. According to the 'Law of Georgia on Refugees', a refugee is "a person without Georgian citizenship who entered the territory of Georgia and to whom Georgia is not the country of origin and who was forced to leave his/her country of citizenship or permanent residence owing to a well-founded fear of being persecuted on account of race, religion, nationality, membership of a particular social group, or political opinion, and is unable to or, owing to such fear, is unwilling to avail him/herself of the protection of that country."	Country of citizenship.	Data collection based on official registrations.	(-) Little information.
Main info: Primary source; stock and flow data					
Periodicity: Continuous (aggregated by year).					

Antward migration: relevant information on sources					
Source	Institutional body in charge of collecting and diffusing data	Population of reference	Migration related variables contained in the source	Data collection methodology	Advantages (+) and drawbacks (-) compared with other sources
Current records of foreign students	Ministry of Education and Science of Georgia.	It covers foreign students .	Country of citizenship.	Data collection based on official registrations and then passed to Geostat.	(-) Little information.
Main info: Primary source; stock and flow data					
Periodicity: Continuous (aggregated by year).					
Registration of population at the place of residence	Civil Registry Agency.	The definition 'arrivals' is used. Arrivals include people who register in a place of permanent residence, i.e. de iure population.	Arrivals by country of citizenship; acquisition of Georgian citizenship.	Data collection based on on-line registration.	(-) Little information.
Main info: Primary source; flow data					
Periodicity: Continuous (aggregated by year).					

Outward migration: relevant information on sources					
Source	Institutional body in charge of collecting and diffusing data	Population of reference	Migration related variables contained in the source	Data collection methodology	Advantages (+) and drawbacks (-) compared with other sources
Georgian Population Census	National Statistics Office of Georgia.	Population census covers the emigrant population , defined as people who left Georgia and live abroad for one year or more.	Reason of departure.	Interviewing of population filling out personal questionnaires.	(+) Reliable data source with universal coverage; (-) Little information on migration history.
Main info: Primary source; universal data collection; stock data.					
Periodicity: Roughly every 10 years: 1959, 1970, 1979, 1989, 2002.					
Current records of Georgian students leaving for abroad	Ministry of Education and Science of Georgia.	It covers Georgian students living abroad .		Data collection based on official registrations and then passed to Geostat.	(-) Little information.
Main info: Primary source; stock and flow data					
Periodicity: Continuous (aggregated by year).					

Outward migration: relevant information on sources					
Source	Institutional body in charge of collecting and diffusing data	Population of reference	Migration related variables contained in the source	Data collection methodology	Advantages (+) and drawbacks (-) compared with other sources
Current records of remittances sent to Georgia	Central Bank of Georgia .	It covers remittances sent by Georgian emigrants living abroad to Georgia.	Total amount of remittances.	The table only provides remittances sent electronically from abroad. They are computed on the basis of statistical accounts of commercial bank.	(-) Little information.
Main info: Flow data					
Periodicity: The information is provided quarterly.					

Data accessibility: Population Census (<http://www.geostat.ge/>), Registration of population at the place of residence (<http://www.cra.gov.ge/>): available upon request; Current registration of refugees: available at <http://mra.gov.ge/main/GEO#section>; Current records of foreign students: available at <http://mra.gov.ge/main/GEO#section>; Current records of Georgian students leaving for abroad: available at <http://www.geostat.ge/>; Current records of remittances sent to Georgia (<http://www.nbg.gov.ge/>).

CHAPTER 2

Legal Framework on Migration and Asylum

**The Legal Framework on Migration and Asylum
- Armenia -**

PETROS AGHABABYAN

Legal Module

In the last twenty years, the Republic of Armenia has experienced substantial changes in migration dynamics, the causes and consequences engendering them, the groups directly or indirectly engaged in migration, as well as perceptions on how to solve these problems by means of state regulation. Naturally, these changes have an impact on the Armenian system of public administration and the implemented migration policy, thus, conditioning its development.

Following the initial focus on the issue of international protection since late 1990s, the spectrum of the state regulation of migration was substantially expanded and extended beyond the issues surrounding the solution of the refugee issues only. In this period, grounds were laid for *national legislation* in the area of migration: the Law on Refugees (1999), on the legal and socioeconomic guarantees for persons that had forcibly migrated from the Republic of Azerbaijan in 1988-1992 and acquired citizenship of the Republic of Armenia (2000), on Political Asylum (2001), on the State Border, on the Border-Guard Troops, on the State Register of the Population (2002). Migration was also placed on the agenda of international relations of Armenia. Bilateral interstate agreements for regulating relations in the area of migration were concluded with over 10 states. Armenia acceded to the conventions related to the Status of Stateless Persons (1954), for the Protection of Human Rights and Fundamental Freedoms (1950), on the Nationality of Married Women (1957), Concerning Discrimination in Respect of Employment and Occupation, the Strasbourg Framework Convention for the Protection of National Minorities (1995), the ILO Migration for Employment Convention C97, etc.¹

General Legal References

2008 Law on Refugees and Asylum

2006 Law on Foreigners

2001 Law on State Boarder

2001 Law on Border Guards Troop

2001 Law On Political Asylum

1999 Law on Refugees (replaced by 2008 law)

1995 Law on Citizenship

1995 Constitution

Armenia has concluded **bilateral agreements** regulating **labour migration** with Belarus (entered into force in 2001), Georgia (into force since 1996), the Russian Federation (in force since 1994) and Ukraine (in force since 1997). Moreover, among several agreements within the framework of CIS, it is a party to the 2010 *Convention on the legal status of migrant workers and their families, adopted by CIS Member States*.

Together with Azerbaijan, Belarus and Moldova, Armenia is a party to the 2008 CIS Convention on the legal status of migrant workers and members of their families, coming from the CIS participation (in force since 2010, for UA since 2012).

Armenia is also a party to the following multilateral agreements in the framework of CIS:

- Agreement on cooperation within the field of labour migration and social protection for migrant workers of 15 April 1994;

¹ See the status of ratifications of the international conventions and agreements signed and/or ratified by Armenia on: <http://www.carim-east.eu/database/legal-module/>

- Protocol on amendments to the Agreement on cooperation in the field of labour migration and social protection for migrant workers of 25 November 2005.

The definition of “Trafficking” was stipulated in the Criminal Code (Article 132) in 2003. This article was amended in 2006 and accepted the definition of “Trafficking” from “Palermo Protocol” (ratified by Armenia in 2003).

International Protection

Armenia acceded to the 1951 Geneva Refugee Convention and the 1967 New York Protocol relating to the Status of Refugees in 1993.

The following forms of international protection exist in Armenia:

- a) Asylum granted to refugees and persons in need of temporary protection
- b) Political Asylum as a special status granted to publicly well-known foreigners and providing protection from political persecution experienced by them in their countries of origin.

The RA Law on Refugees and Asylum (Chapter 2) establishes basic rights of the asylum seekers and recognized refugees. Asylum seekers and refugees have the same rights and obligations as foreigners and stateless persons legally residing in Armenia, unless the present Law provides otherwise (Art. 15). They have the right to apply to UNHCR (Art. 16).

Asylum seekers and refugees granted asylum have a right to be allowed to seek and find an employment within the territory of Armenia under the same conditions as citizens of Armenia, unless the present Law provides otherwise (Art. 21). The Law On Foreigners envisages favourable treatment with regard to some categories of foreigners, proceeding from their legal status. At the same time, an asylum seeker or recognized refugee cannot fill positions in state and local self-government bodies.

Refugees granted asylum have the right to benefit from the social services, state allowances

and other financial assistance, which are defined by the legislation of Armenia for the citizens of the Republic of Armenia, as well as they have the right for social protection with regard to pension security and unemployment prescribed by the legislation of Armenia (Art. 23), the right to accommodation (Art. 24).

Refugees do not enjoy political rights.

Outward migration

Entry and Exit

Visa

Apart from being a party to the 1992 *Agreement on Visa-free Movement of Citizens of the CIS-Countries on the Territory of the Member States*, Armenia has concluded bilateral visa free agreements with Belarus, Georgia, Kazakhstan, Russian Federation and Turkmenistan. A similar agreement has been also concluded with Argentina.

EU-Armenia Visa Facilitation Agreement was signed in 2012 (entry into force together with EU-Armenia Readmission Agreement after internal procedures for their official conclusion are completed).

Cross-border mobility

Citizens of Armenia can cross the border freely, with a valid travel document. Armenia also provides for a **certificate of Return to the Republic of Armenia**. According to the Decision of the Armenian Government No 297-N 24 of March 2011, the certificate is a one-way travel document. This document enables Armenian citizens, those recognized as refugees or those who have sought asylum in the Republic of Armenia, and those with a right to reside in the Republic of Armenia to return quickly should they lack legal documents enabling them to cross the state border (point 1 of Annex 2 approved by the decision). Those illegally staying abroad without legal documents are also provided with the return certificate in order to ensure their return to the Republic of Armenia.

Irregular Migration

Readmission agreements are in place with Benelux countries, Bulgaria, Czech Republic, Denmark, Germany, Latvia, Lithuania, the Russian Federation, Norway, Sweden and Switzerland since 2003. In order to fulfil obligations of agreements, the government has adopted a decision No. 1360-N in 2011 which defines relevant duties of Armenian state authorities as well as procedural issues.

Agreement on cooperation between CIS Member States in combating illegal migration of 6 March 1998 regulates cooperation between Armenia and other countries in the CIS area. On this basis, Armenia must develop instruments curbing irregular migration of its own nationals, in accordance with international law.

Rights and Settlement

According to the Constitution, Armenian citizens enjoy the protection of their State both at home and abroad. Armenia is a party to the Agreement on guaranteeing rights of CIS citizens in the field of pension provision (in force since 1993), very relevant for Armenian migrant workers.

Labour

Armenia ratified ILO Migration for the Employment Convention (C97) and the ILO Migrant Workers Convention (C143). Arts are of particular importance to the employment of Armenian citizens abroad. 2-4 of the ILO C97 Migration for Employment Convention, obliging Armenia: to facilitate the departure of migrant workers; to maintain an adequate and free service to assist migrant workers, and, in particular, to provide them with accurate information, and to take all appropriate steps against misleading emigration and immigration information.

Armenia also pre-signed a bilateral Agreement with Qatar on recruitment and effective use of Armenian health workers.

Citizenship

The Article 13.1 of the *Law on the Citizenship of the Republic of Armenia* of 1995 regulates the state approach to dual citizenship. A person who holds the citizenship of other countries in addition to Armenian citizenship is deemed dual citizen of the Republic of Armenia. For the Republic of Armenia, a dual citizen is recognized only as Armenian citizen. A dual citizen of the Republic of Armenia has the same rights, responsibilities and obligations as other citizens. An Armenian citizen upon accepting or receiving the citizenship of another country shall inform the authorized body of the Armenian Government, no later than one month thereafter.

Inward migration

Visa

Entry visas are issued for up to 120 days, with the possibility of extension for a maximum term of up to 60 days. There are four types of entry visas in Armenia:

- visitor visas;
- official visas;
- diplomatic visas;
- transit visas.

The entry visa is not required for the citizens of Argentina, Belarus, Georgia, Kazakhstan, Moldova, the Russian Federation, Tajikistan, Ukraine, Uzbekistan, Azerbaijan and Kyrgyz Republic (acc. to the MFA, the visa-waiver for AZ, KG and UZ citizens is practiced on an ad-hoc basis, and is not formalised by any bilateral agreement). In accordance with the Governmental Decree No. 1255-N of 4 October 2012, the citizens of the EU and Schengen Member States are exempted from visa requirement and can stay in Armenia up to 180 days per annum as of 10 January 2013.

Cross-border mobility

Foreigners can enter Armenia through state border crossing points with a valid passport, an entry visa or a document attesting the residence status. Foreign citizens can enter Armenia either without a visa if they are citizens of certain countries exempted from the visa obligation mentioned above, or with a visa issued in an Armenian diplomatic mission, at the border crossing points or electronically.

Exit conditions are stipulated in Art. 12 of the Law on Foreigners. Foreigners may exit Armenia with a valid passport and a valid document attesting lawful stay or residence. The exit of a foreigner may be prohibited in case of criminal charges or a court sentence.

Irregular Migration

Migration-related offenses are included in the Criminal Code of Armenia (Article 329. Illegal state border crossing) according to which crossing the state border without relevant documents or permits, is punished by a fine of 100-200 of minimum salaries or imprisonment for up to 3 years.

The same action committed by an organised group is punished with imprisonment for 3-7 years.

This Article does not apply to cases when a foreign citizen or stateless person enters the Republic of Armenia without relevant documents or permits to seek political asylum stipulated by the Constitution and legislation of the Republic of Armenia. However, practically, there are cases when the foreigners who had applied for asylum were subjected to criminal liability because they did not have relevant document or permit.

The Code on Administrative offences (Article 201) defines the sanctions for the foreigner who stays in Armenia without a valid passport or residence permit. Penalties are also foreseen for a person, who invited a foreigner without covering the cost of his accommodation, health care and travel.

In cases of absence of travel documents or legal grounds to stay in Armenia, foreigners (except asylum seekers) are forcibly returned from the state border by the same carrier. If the immediate return is impossible, they may be **detained** in a transit area or in a special facility provided for that purpose.

Rights and Settlement

Foreigners with no legal grounds to stay are obliged to leave the country on their own (no time limit except for rejected asylum seekers, 6 months). The failure to depart independently can lead to the expulsion. The latter is ordered by a court upon the request of the Police. The **Police** implements the expulsion decision. A 3-year entry ban is imposed for expelled foreigners. **Arrest and detention** are possible when there is a risk of absconding (max. 90 days). If the expulsion is impossible within 90 days, the police issues a **temporary residence permit** valid for up to one year.

A foreigner subject to expulsion from the Republic of Armenia enjoys all the rights to judicial remedies provided for by the laws of the Republic of Armenia. A detained or arrested foreigner enjoys the following rights:

- to information in their own language;
- to appeal; the appeal has a suspensory effect on the expulsion.
- to legal support and consular support;
- to apply to a court for release;
- to necessary medical assistance.

The Code on Administrative offences (Art. 201) defines sanctions for the employer (in the case of a legal entity, their executive directors) if they employ foreigners without a work permit or without appropriate resident status. The employer is punished by a fine of 100- 150 minimum salaries.

Foreigners have the rights, freedoms, and responsibilities equal to the citizens of the Republic of Armenia, unless otherwise provided for by the Constitution, laws, and the international treaties of the Republic of Armenia. Armenian legislation distinguishes between three types of residence permits:

- temporary;
- permanent;
- special.

Temporary residence permit is granted by the Police Department for a term of up to one year with a possibility of extension for one year every time.

Permanent residence permit is granted for a term of five years with a possibility of extension for the same term every time.

Special residence status is granted to foreigners of Armenian origin. Special residence status may also be granted to other foreigners who carry out economic or cultural activities in the Republic of Armenia. Special residence status is granted (by the President) for a term of ten years. It may be granted more than once.

Labour

The *Law on Foreigners* of 2006 is a key legal act regulating the employment of foreigners in Armenia. A definition of “Migrant Workers” is not stipulated by the Law. The Law does not classify foreign workers according to their qualifications, specific sectors of employment by the nature of their employment (paid or self-employed, seasonal, etc.). The Law envisages favourable treatment with regard to some categories of foreigners, depending on their legal status. There is no established quota system for migrant workers.

Employers have the right to conclude an employment contract (service contract) with foreign employees. They also have the right to use their labour based on the work permits granted to

foreigners by the authorized body. When granting work permits to foreign citizens, the needs of the Armenian labour market have to be taken into account.

Therefore, time-limits for an employer have been established to fill available vacancies with Armenian citizens before engaging foreign nationals. These provisions from the relevant Articles of the Law on Foreigners and the Code of Administrative Offences have not been fully implemented so far, and all provisions on the principle of national preference and the requirement of a work permit (Arts. 22-26, 28) are not applicable until the Government adopts relevant implementing decisions.

Citizenship

Law on the Citizenship of the Republic of Armenia of 1995 defines grounds, procedure and conditions for acquisition, cessation and loss of citizenship as well as deprivation of citizenship and its restoration.

Bases for the acquisition of RA Citizenship are stipulated in Article 9 of this Law. As a rule, RA Citizenship is acquired:

1. Through recognition of citizenship;
2. By birth;
3. Through naturalization;
4. Through the restoration of citizenship;
5. Through receiving citizenship as a group (group naturalization);

According to Art. 10 (2) of the Law, stateless persons or former citizens of other USSR republics who are not foreign citizens and who permanently reside in Armenia can be recognized as citizen of the Republic of Armenia if they have applied for its acquisition up to one year after the entry into force of the Law. That deadline has been prolonged for a few times to encourage refugees from Azerbaijan /1988-1992/ to obtain citizenship of Armenia. According to the last amendment of this Law they can apply for that until 31 December, 2012.

Any foreigner of 18 years of age and capable of working may apply for Armenian citizenship, if he/she:

1. has been lawfully residing on the territory of the Republic of Armenia for the preceding 3 years;
2. is proficient in Armenian;
3. is familiar with the Constitution of the Republic of Armenia.

Receiving RA Citizenship as a group in case of repatriation or other cases prescribed by Law shall be carried out by decree of the President of the Republic.

**The legal framework on Migration and Asylum
- Azerbaijan -**

ALOVSAT ALIYEV

Legal Module

The system of migration-related legislation in the Republic of Azerbaijan (RA) includes the Constitution, international treaties concluded, national laws and by-laws. The Constitution stipulates that foreigners have same rights and fulfil the same duties as Azeri citizens, if not prescribed otherwise by the law or by international agreements that have been ratified by Azerbaijan. However, an implementation gap exists in this area. Although Azerbaijan has ratified a number of Conventions, including the Convention on the Reduction of Statelessness, the Convention relating to the Status of Stateless persons, and the Convention on the Nationality of Married Women, national legal norms are not always in compliance with such instruments and the relevant implementation mechanisms are not always clearly defined. A single Migration Code, which entered into force on August 1st, 2013, purports to eliminate the existing contradictions between the various legal sources that regulate the area of migration.

General Legal References

1995 Constitution of Azerbaijan (amended 2002)

2013 Migration Code

2002 Law On State Policy Concerning Citizens Residing Abroad (amended in 2003)

1999 Law On the Legal Status of Refugees and Displaced Persons

1998 Law On Citizenship

1994 Law On Exit from the Country, Entry into the Country, and Passports

Azerbaijan is party to:

- The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ratified in 1999)
- The CIS Convention on the Legal Status of Migrant Workers and Members of their Families coming from CIS member states (in force since 2010);
- The Agreement on Cooperation in the Field of Labour Migration and Social Protection for Migrant Workers, adopted by CIS Member States (in force since 1996);
- The Protocol on amendments to the Agreement on Cooperation in the Field of Labour Migration and Social Protection for Migrant Workers, adopted by CIS Member States (signed in 2005).

In 2004, the Republic of Azerbaijan signed an agreement with Ukraine on the Employment and Social Security of Ukrainian citizens working temporarily in the territory of Azerbaijan and Azeri citizens temporarily working in Ukraine. The agreement regulates the recognition of professional experience, social security, pension rights and health insurance. Azerbaijan signed similar bilateral agreements on cooperation in the field of migration with Moldova, Kazakhstan, Kyrgyzstan, and Belarus.

International Protection

The issues of **political asylum** and **refugee status** are regulated by the Constitution of Azerbaijan, the law ‘On the Status of Refugees and Displaced Persons’ of May 1st, 1999, and other national legislative acts and regulations.

In 1993, Azerbaijan ratified the United Nations Convention Relating to the Status of Refugees. The UN High Commissioner for Refugees has representation in the Republic of Azerbaijan.

According to Articles 70 and 109 of the Constitution of the RA, asylum in Azerbaijan may be granted to foreigners and stateless persons.

In accordance with the 1999 law on the Status of Refugees and Internally Displaced Persons, **the following forms of international protection** exist in Azerbaijan:

- **refugee status:** in compliance with the Geneva Convention;
- **political asylum:** a person who has arrived in the territory of the RA and has applied for refugee status or intends to do so, is considered to be seeking asylum until a decision on granting or denying him refugee status is adopted.

Paragraph 1.1 of the ‘Regulation on the State Committee on Affairs of Refugees and Internally Displaced Persons’ of February 1st, 2005, regulates the activities of the central executive authority in charge of state practice in the sphere of transportation, accommodation, repatriation, and social protection of persons who became refugees as a result of Nagorno-Karabakh conflict.

Outward migration

Entry and Exit

Visas

The EU-Azerbaijan Visa Facilitation Agreement was signed on 29 November 2013. Azeri citizens are exempted from visa requirements in CIS countries (except Turkmenistan) and in Georgia. Agreements on reciprocal visa-free visits of citizens are signed with the Russian Federation, Kazakhstan, Uzbekistan, and China (for tourists only). Agreements of reciprocal visits of persons with diplomatic and service passports are signed with Egypt, Montenegro, Qatar, Serbia, UAE, Mexico, Vietnam, Libya, Austria, Portugal, Estonia and Slovenia.

Usually a person who becomes a citizen of any other country without renouncing Azeri citizenship is regarded as a foreigner and should obtain a visa to enter Azerbaijan.

Cross-border mobility

Issues related to the exit from and entry into the territory of the RA by foreigners and stateless persons are regulated by the RA law on ‘Exit from the Country, Entry into the Country, and about Passports’ (June 14th, 1994). According to this law, Azeri citizens have the right to exit and enter the Azerbaijan Republic. Every citizen of the RA has the right to exit from and enter the country freely through the checkpoints established for these purposes. Citizens of Azerbaijan cannot be deprived of the right to exit from and enter their country. The entry/exit procedure is carried out at the border checkpoints and is regulated by the law ‘On State Borders’ (December 9th, 1991).

A citizen’s right to exit from and enter the country is exercised only upon the availability of his/her passport and a permit to enter another country, i.e. a visa issued in accordance with international treaties.

Irregular Migration

No bilateral agreements are signed on the readmission of illegal migrants. Although in Article 75(1) of the EC Azerbaijan Partnership and Cooperation Agreement (entered into force in 1999) Azerbaijan agreed to readmit any of its nationals illegally present within the territory of a Member State, upon request by the latter and without further formalities, this clause has never worked in practice.

Azerbaijan ratified the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2003. Azerbaijan is also party to the 1998 Agreement on Cooperation between CIS Member States in Combating Illegal Migration.

Rights and Settlement

According to the constitution, Azerbaijan citizens enjoy the protection of their state both at home and abroad.

Article 7.1 of the Law ‘On State Policy Concerning Citizens Residing Abroad’ stipulates that public authorities of the RA shall assist citizens residing in another country in the preservation and development of their cultural legacy and national language and shall assist citizens of the RA in obtaining education in their own language.

Labour

The main law regulating labour migration issues of the Azeri citizens abroad is the Migration Code adopted on August 1st, 2013.

Article 58 stipulates that:

1. Citizens of Azerbaijan who have reached the age of 18 have the right to move to another country to be engaged in labour activities;
2. Citizens of the Republic of Azerbaijan may become employed in foreign countries through the direct invitation of foreign legal or physical entities, through the mediation of legal entities officially registered in the Republic of Azerbaijan, or individually.
3. When citizens of the Republic of Azerbaijan carry out paid labor activity in foreign countries, they shall be registered at the diplomatic mission or consulate of the Republic of Azerbaijan in that country within one month after arrival to the country of destination and shall submit an official document on employment in the given country in order to ensure full provision of their rights by the respective state.

Article 59 regulates the activities of private employment agencies and the licensing procedure.

Citizenship

The Constitution and the Law ‘On Citizenship of the Republic of Azerbaijan’ (Art. 1) stipulate that a person belonging to the Azerbaijani state, having political and legal ties with it as well as mutual rights and obligations is a citizen of the RA. A person born on the territory of the Republic of Azerbaijan is a citizen of the RA. A person, one of whose parents is a citizen of the RA, is a citizen of the RA.

The Law ‘On State Policy Concerning Citizens Residing Abroad’ provides the definition of a citizen residing abroad: citizens of the RA and their children, former USSR citizens, or former citizens

of Azerbaijan and their children. This law stipulates that residence of an RA citizen in another country shall not serve as a pretext for termination of his or her citizenship.

Dual or multiple citizenships are not recognized for citizens of the RA. However, the President of the Republic may grant permission to have dual citizenship.

Citizens of Azerbaijan who are at the same time citizens of other states—if according to the law of the second country the foreigner who acquires its citizenship does not have to renounce his/her previous citizenship—in legal relations with Azerbaijan are recognized only as a citizens of Azerbaijan.

The law on citizenship permits voluntary renunciation of Azerbaijani citizenship. A person who used to be a citizen of the RA but has since renounced their citizenship has a right to recover RA citizenship.

The grounds for involuntary loss of Azerbaijani citizenship are:

1. A person voluntarily acquires foreign citizenship;
2. A person commits an act that affronts the dignity of the Republic of Azerbaijan.

Inward migration

Visas

Agreements on reciprocal visa-free visits for citizens of CIS member states (except Turkmenistan) and Georgia, tourist groups from China and persons with diplomatic and service passports from Egypt, Montenegro, Qatar, Serbia, UAE, Mexico, Vietnam, Libya, Austria, Portugal, Estonia, Slovenia.

The maximum period of stay in AZ for citizens coming from visa-free countries is 90 days.

One-time and two-time transit visas are granted to foreigners going to other countries and passing through the territory of the Azerbaijan Republic. The validity period of a transit visa shall be determined, with a maximum of 30 days. The period of stay in the country shall be determined, with a maximum of 5 days. Entry visas are valid for a one-time entry/exit during a period of up to 90 days and up to 2 years for multiple-time entry/exit.

Cross-border mobility

Foreigners and stateless persons are allowed to enter and exit from Azerbaijan when they pass through special checkpoints while holding personal passports and stay permits.

The law forbids the entry of foreigners into the Republic of Azerbaijan if:

1. it is vital for the protection of national security or public order;
2. it is necessary for the protection of rights and legal interests of RA citizens and other persons;
3. the person violated requirements of laws of the Republic of Azerbaijan during his previous visit to the country;
4. the person gave false information about himself/herself in the application to enter the Republic of Azerbaijan;
5. the person is suffering from mental or infectious (contagious) diseases and constitutes a threat to public health (except those persons who do not constitute such a threat and are arriving at his/her or their legal trustee's expense for medical treatment).

The exit of foreigners from the Republic of Azerbaijan can be temporarily restricted if:

1. their exit can cause damage to national security - until the removal of this reason;
2. they are suspects or defendants (accused) in committing a crime – until the completion of the case;
3. they are condemned for committing a crime - until the discharge or full-serving of their punishment;
4. a civil action is brought against them in court - until a decision on this civil case comes into force as specified by the legislation of the Republic of Azerbaijan.

Information about the entry and exit of foreigners is registered in the “Entry-Exit and Registration” automated data-retrieval system.

Only those persons who have been granted immigrant status in Azerbaijan may enter and exit from the country without a visa by presenting their passports and immigrant identity document. Although there is no limitation on the duration of the immigrant’s stay outside of Azerbaijan, his/her absence in the country for more than six months during a year serves as a basis to discontinue that status.

Despite the fact that over half of foreigners entering Azerbaijan are either citizens of the ex-USSR who lived in Azerbaijan in Soviet times or ethnic Azerbaijanis now living in other countries, there is no simplified procedure for them to enter or exit from Azerbaijan.

Irregular Migration

Illegal entry, stay, and transit are administrative infringements. The Code of Administrative Offences regulates the removal of irregular migrants and the procedure of reimbursement for expenses related to the removal of individuals. A person expelled from Azerbaijan has no right to re-enter.

In case of absence of travel documents or legal grounds to stay in Azerbaijan (except for asylum seekers), migrants are forcibly returned without any possibility to appeal against the return decision. Expulsion of immigrants can be ordered by a court when a person’s immigrant status has been annulled because they have fraudulently acquired this status; because they have committed certain administrative infringements; for the purpose of national security; or because they have resided outside AZ longer than 6 months in a year. Seven days are granted for **independent departure** and the failure to comply leads to **forced expulsion**. An absolute **entry ban** is imposed.

Expulsion of non-immigrant foreigners can be ordered by the MIA, State Migration Service, or a court, when foreigners have seriously infringed legislation on the legal status of foreigners. Forty-eight hours are granted for **independent departure**, which can be extended in justified cases. Failure to depart within the fixed time-limit leads to **detention and forced expulsion** ordered by a court. In this case too, an absolute **entry ban** is imposed.

Forced expulsion from the RA as an additional form of punishment is also provided for by the RA Criminal Code (‘RA CC’). Article 52 of the RA CC stipulates that forced expulsion from the RA may be imposed on foreign nationals following their initial punishment for serious and very serious crimes.

THB: The Criminal Code provides for criminal liability for trafficking in persons (i.e. the sale and purchase of human beings and other transactions relating to human beings such as the transportation of a person across the border of the Republic of Azerbaijan for the purpose of his/her exploitation, transfer, harbouring, receipt, or transportation), for imposing forced labour, and for the illegal sale, purchase, and forced withdrawal of human organs and tissues for transplantation.

In 2005, the **Law on Combating Human Trafficking** was adopted. The law includes *inter alia* provisions on the social rehabilitation of victims of human trafficking (Art. 15). According to Article 20, foreigners and stateless persons who are victims of human trafficking have the right to apply for a

residence permit on the territory of the Republic of Azerbaijan. This article also stipulates that such foreigners and stateless persons who were recognized as victims of human trafficking shall not be subject to expulsion from the country for one year.

Rights and Settlement

Rights

Chapter 4 of the law ‘On the Legal Status of Foreigners and Stateless Persons’ stipulates that foreign nationals and stateless persons have the same rights and freedoms and the same responsibilities as citizens of Azerbaijan, if not otherwise provided for in the Constitution of the RA, other laws, or international treaties of the RA. Foreign nationals and stateless persons are obliged to adhere to the requirements provided for in RA legislation and to respect the customs and traditions of the Azerbaijani people.

Foreigners and their family members have a right to social welfare and retirement benefits in Azerbaijan. Foreigners are exempt from military duties. Foreigners do not have a right to participate in elections and referendums. They have the right to participate in municipal elections if they have resided within a relevant municipal territory for at least 5 years and if a similar right is in place for foreigners in their country of citizenship.¹

Settlement

The “Rules of Granting Permits for Temporary Residence in the Territory of the Republic of Azerbaijan to Foreigners and Stateless Persons” determine the procedure of granting temporary residence permits to foreigners and stateless persons who have arrived in the RA based on a visa or visa-free regime. In order to obtain temporary residence permits, foreigners and stateless persons must file an application with the State Migration Service. When temporary residence permits are issued to foreigners and stateless persons, they are also issued an ID that serves as a valid document for entry and exit.

The law ‘On Registration in the Place of Residence and Place of Stay’ regulates the procedure of registration of citizens, foreigners and stateless persons in the place of residence and place of stay. Citizens of Azerbaijan, foreigners, and stateless persons must register in their place of residence or place of stay.²

Foreigners who want to stay on the territory of the RA for less than 30 days are registered in their place of stay. Foreigners intending to reside in the territory of Azerbaijan for more than 30 days must refer to the relevant executive body to register their place of residence within 3 days after arriving in that place of residence.³ Persons who have addressed the relevant executive body for registration in their place of residence are registered immediately.⁴

A stateless person is registered in their place of residence. Having referred to the relevant executive body to obtain a replacement identity card, he or she shall be issued a document temporarily proving his or her identity.

¹ Article 12 of the Electoral Code of the Azerbaijan Republic

² Point 1 of the provision on application of the law ‘On Registration in the Place of Residence and Place of Stay’.

³ Point 20 of the provision on application of the law ‘On Registration in the Place of Residence and Place of Stay’.

⁴ Point 6 of the provision on application of the law ‘On Registration in the Place of Residence and Place of Stay’.

Foreigners or stateless persons who have resided in the territory of Azerbaijan on legal grounds for no less than 2 years have a right to file an application with the State Migration Service to obtain the **status of an immigrant**. Immigrant status is granted by the State Migration Service upon coordination with the Ministry of National Security. Immigrant status is granted for 5 years but can be extended an unlimited number of times for 5 years.

According to Article 13 of the Labour Code, foreigners and stateless persons can benefit from all labour rights on par with the citizens of the RA and bear liabilities in accordance with these rights. It is prohibited to limit the labour rights of foreigners and stateless persons unless otherwise provided by the law. At the same time, it is inadmissible to set preferential rights for foreigners and stateless persons with regards to labour.

To employ foreigners, legal and physical persons have to obtain special permission from the State Migration Service. According to the Migration Code, the principal conditions for the performance of labor activities by foreigners and stateless persons involve the availability of a job vacancy that is not being demanded by a citizen of the Republic of Azerbaijan with the skills and qualifications required for such job, and the inability of employment services to meet employers' need for manpower at the cost of local labor resources. (Art. 61). Taking into account the demand of the domestic labor market, restrictions on some areas of activity can be imposed on labor migration to the Republic of Azerbaijan by a relevant executive body.

Labour

Foreigners and stateless persons need a work permit issued by the State Migration Service. In order to obtain this permit, foreigners address the SMS via their employers. A work-permit (valid for 1 year) is obligatory in all cases except for: those who possess permanent residence permit in the territory of the Republic of Azerbaijan; those who are engaged in entrepreneurship activity in the territory of the Republic of Azerbaijan; employees of diplomatic representations, consulates or international organizations; managers of organizations established under international agreements or their deputies; those who are employed by a relevant executive power; employees of mass media accredited in the Republic of Azerbaijan; those who are seconded for a mission with a total duration of 3 months within a year for installation, maintenance or technical service of equipment based on a contract; seamen; lecturers and professors and tutors invited to universities (higher educational institutions) to deliver lectures; art workers; coaches and athletes invited to work in sport clubs and registered with the relevant executive authority; specialists invited by universities (higher education institutions) and relevant executive bodies for scientific research activities; those who perform professional religious activities in the officially registered religious institutions; heads of branch offices and representations of foreign legal entities in the Republic of Azerbaijan and their deputies (with the condition of a maximum of 3 deputies); those who are married to a citizen of the Republic of Azerbaijan, those who are subject to the registration of that citizen in the territory of the Republic of Azerbaijan in the place of residence; those who have filed application for a refugee status, were granted refugee status or were granted political asylum; those who are chaperoning citizens of the Republic of Azerbaijan under 18 years old or a group disabled individuals.

Foreigners are granted permits for temporary residence in the territory of Azerbaijan for the validity period of the individual work permit. Legal and physical entities may apply for a work permit for a foreigner and stateless person while they are still outside the Republic of Azerbaijan.

Citizenship

The main preconditions for naturalization are:

1. Permanent lawful residence on the territory of the Republic during the last **five** years,
2. Knowledge of the state language (a certificate confirming knowledge of the language is required),
3. Lawful means of subsistence,
4. Recognition and observance of the Constitution of the RA and national laws.

A person wanting to obtain citizenship of the Republic of Azerbaijan submits an application addressed to the President of the Republic of Azerbaijan and all necessary documents to the State Migration Service. All data submitted by the person is verified by the State Migration Service. The decision on the granting, recovery, or termination of citizenship is made by the President of the RA.

Since 1996, Azerbaijan has been party to the

- 1957 Convention on the Nationality of Married Women,
- 1954 Convention relating to the Status of Stateless Persons, and
- 1961 Convention on the Reduction of Statelessness.

**The legal framework on Migration and Asylum
- Georgia -**

GAGA GABRICHIDZE

Legal Module

In 1993, soon after independence, the Georgian Parliament adopted several laws, which constituted a core of the migration legislation: the Law on the Citizenship of Georgia; the Law on Foreigners' Temporary Entry into, Stay in and Exit from Georgia; the Law on the Legal Status of Foreigners; the Law on Immigration, and the Law on Emigration. It took a relatively long time before a legislative act regulating the granting of refugee status was adopted by the Parliament in 1998, which was declared invalid recently upon the entry into force of the Law on Refugee and Humanitarian Status on 18 March 2012.

The most important event with regard to regulating migration was the adoption of the new Law on Legal Status of Foreigners on 27 December 2005, which came into force on 1 July 2006, declaring invalid the previous Law on the Legal Status of Foreigners, the Law on Temporary Entry of Foreigners as well as the Law on Immigration. The aforementioned law is a legal document regulating legal grounds of foreign citizens' entry into, stay in and exit from Georgia, determining their legal status and regulating most of the relations with participation of foreign citizens. The abovementioned Law on Emigration was declared void on 2 February 2009 when its provisions were incorporated in the Law on the Rules of Georgian Citizen's Entry into and Exit from Georgia, which was renamed in the "Law of Georgia on the Rules of Georgian Citizen's Entry into and Exit from Georgia". Within the framework of the EU-Visa Liberalisation Action Plan, Georgia prepared a new draft Law on the Legal Status of Foreigners and Stateless Persons, which was approved by the Government on 30 October 2013 with a view of its submission to the Parliament.¹

As to the legislation on citizenship, worth mentioning are the amendments of 6 December 2004 to the Constitution of Georgia and the Constitutional Law on Citizenship of Georgia which empowered the President of Georgia to grant citizenship to a citizen of a foreign country who has a special merit before Georgia or whose citizenship is in the state's interest.

Finally, at the end of 2011, the Law on Compatriots Living Abroad and Diaspora Organizations was adopted (it entered into force on 1 March 2012), which, among other, defines the basis for acquiring the status of compatriots living abroad and benefits deriving from that status.

General Legal References

Legal framework governing migration and mobility

2011 Law on the Refugee Status and Humanitarian Status

2011 Law on Compatriots Living Abroad and Diaspora Organizations

2009 (1993) Law on the Rules of Georgian Citizen's Entry into and Exit from Georgia

2006 Law on Combating Human Trafficking

2005 Law on the Legal Status of Foreigners

1996 Law on the Rules of Registration of Georgian Citizens and Foreigners Residing in Georgia

1995 Constitution of Georgia

1993 Law on the Citizenship of Georgia

¹ See further details in First Progress Report on the implementation by Georgia of the Action Plan on Visa Liberalisation, published by the European Commission on 15.11.2013 (COM(2013) 808 final).

International Protection

Georgia ratified 1951 Geneva Refugee Convention and the 1967 New York Protocol in 1999. The Georgian legislation differentiates between the procedures of granting of asylum, the refugee status and the humanitarian status. Asylum is granted by the President of Georgia, whereas the refugee status and the humanitarian status are granted by the Ministry of IDP, Accommodation and Refugees. Asylum is granted to those foreigners who are persecuted in their home countries for promoting human rights protection and peace, as well as for carrying out progressive socio-political, scientific and other intellectual activities. Asylum is granted by the President of Georgia, whereas the refugee status and the humanitarian status are granted by the Ministry of IDPs from the Occupied Territories, Accommodation and Refugees.

A refugee status may be granted to a person who is not a Georgian citizen and is not a stateless person permanently residing in Georgia and owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country or to return it.² As to the humanitarian status, it can be obtained by a person, who cannot fulfil the requirements of the refugee status, but is unable to return to his or her place of permanent residence due to certain humanitarian reasons.³

After illegally crossing the border, a person seeking asylum in Georgia is obliged to apply to a state body within 24 hours. The Ministry of IDPs, Accommodation and Refugees has to reach a decision on the registration of the person as asylum seeker within 10 days from the date of filing the application.⁴

Persons who apply for protection in Georgia are offered accommodation in the asylum reception centre. The decision on the granting to the person a refugee or humanitarian status is made by the Ministry within 6 months after the registration, whereas, this period may be extended by up to 9 months.⁵

Persons with the refugee or humanitarian status receive the temporary residence permit.

Persons who were granted the refugee or humanitarian status has the right to stay in the reception centre up to 3 months and then either to choose accommodation provided by Ministry of IDPs, Accommodation and Refugees or find their own accommodation.

Outward migration

Entry and Exit

Visa

Georgian citizens are exempted from the visa requirements in Mongolia, Turkey and the CIS countries, except for the Russian Federation. On 18 November 2013, Georgia and Israel signed an agreement on Visa Exemption for Holders of National Passports.

The EU-Georgia Visa Facilitation Agreement is in force since 1 March 2011.

² Article 2 of the Law on Refugee and Humanitarian Status.

³ Article 4 of the Law on Refugee and Humanitarian Status.

⁴ Article 12 (1) of the Law on Refugee and Humanitarian Status.

⁵ Article 18 (1) (b) of the Law on Refugee and Humanitarian Status.

The EU-Georgia Visa Dialogue with a view to visa-free travel of GE citizens to the Schengen MS was launched in June 2012, and the relevant Visa Liberalisation Action Plan, which needs to be implemented by Georgia before the visa requirement for GE citizens is waved, was handed to Georgian government by Commissioner Malmström in February 2013.

Cross-border mobility

According to Art. 22.2 of the Constitution, everyone legally residing in Georgia shall be free to leave Georgia. This right may be restricted only: in accordance with the law; in the interests of securing national security or public safety; for the protection of health; for the prevention of crime; and for the administration of justice that is necessary for maintaining a democratic society. Special restrictions regarding the exit of citizens of Georgia are set in the Law on the Rules of Georgian Citizen's Entry into and Exit from Georgia. In particular, a Georgian citizen may be refused to exit Georgia if he/she is wanted by the law enforcement agencies of Georgia or if he/she has presented any invalid or false documents.

Reference should also be made to the Decree of the President of Georgia of 27 February 2012, No 142 regulating the issue, validity and use of the return certificate to Georgia, which is a document to be issued to Georgian citizens in specific cases so that they can return to Georgia.

Irregular Migration

The Agreement between the European Union and Georgia on the Readmission of Persons Residing without Authorization was signed on 22 November 2010 and came into force on 1 March 2011. It has concluded before readmission agreements with Italy (signed in 1997, not entered into force), Bulgaria (2003), Switzerland (2005), Germany (2008) and Latvia (2009).

The most recent readmission agreement was signed on 10 November 2011 between Georgia and the Kingdom of Norway (it came into force on 3 February 2012).

The Readmission Agreement concluded between the EU and Georgia does not supersede all previous agreements between individual Member States and Georgia. However, its provisions take precedence over the provisions of any bilateral agreement. For example, under the EU-Georgia readmission agreement, a readmission application must be replied to within 12 calendar days. The Agreement between GE and Bulgaria sets 30 days as the time limit for replying a readmission agreement. In such cases of difference as this, the provisions of the EU Georgia Readmission Agreement take precedence.

The Decree of the President of Georgia of 26 April 2011, N 225 designates the Ministry of Interior as the competent authority for the implementation of the EU-Georgia readmission agreement. Georgia has concluded a readmission agreement with Ukraine in 2004 and a relevant readmission protocol in 2005.

Rights and Settlement

The Georgian legislation provides citizens of Georgia with the right to exit from Georgia for permanent residence to another state.⁶ Whereas, Georgian citizens who decide to emigrate from Georgia have to obtain an emigration permit.⁷

⁶ Article 3 (1) of the Law on the Rules of Georgian Citizen's Entry into and Exit from Georgia.

⁷ Article 20 of the Law on the Rules of Georgian Citizen's Entry into and Exit from Georgia

The Georgian legislation provides for a special status of compatriots and Diaspora organizations. A compatriot residing abroad is defined as a citizen of Georgia, who resides in other state for a long period of time, or a citizen of other state, who is of Georgian descent or/and whose native language belongs to the Georgian-Caucasian language group. The Georgian descent means when a person or his/her ancestor belongs to any ethnic group living within the territory of Georgia, and recognizes Georgia as own country of origin. In practice, most emigrants do not apply for it. Consequently, the numbers of the emigrants registered by Georgian authorities do not reflect the scale of emigration from Georgia.⁸ A Diaspora organization is defined as community established pursuant to the laws of the state of residence, for the purpose of popularization of Georgian culture, national language and traditions, initiation of communication between the diasporas, cooperation with Georgia in cultural, scientific and technical, and other fields.⁹ Persons with a status of compatriots living abroad are allowed to enter Georgia without visa and stay in Georgia for up to 30 days.¹⁰ They also have the right to receive state study grants for secondary and higher education.¹¹ In case of the approval of a respective sport's governing body, compatriots living abroad will have an opportunity to represent Georgia at sport events.¹²

Labour

Accession to the ILO Discrimination (Employment and Occupation) Convention in 1995. Accession to the ILO Convention on Private Employment Agencies in 2002.

In 1996, Georgia ratified Revised European Social Charter. Among those provisions of the Charter which are binding for Georgia is Article 19 which deals with the right of migrant workers and their families to protection and assistance. Though, the Revised Social

Charter is not yet ratified by eleven member states of the Council of Europe, including Germany, the Czech Republic and the United Kingdom. This reduces the application area of the Charter. According to Art. 20 of the 1996 EC Georgia Partnership and Cooperation

Agreement, “the Community and the Member States shall endeavour to ensure that the treatment accorded to Georgian nationals legally employed in the territory of a Member State shall be free from any discrimination based on nationality, as regards working conditions, remuneration or dismissal, as compared to its own nationals.”

In the framework of the EU-Georgia Mobility Partnership signed in 2009, Georgia signed on 11 November 2013 an agreement on circular migration with France, and is the process of negotiating another labour migration agreement with Germany. There are also other measures enacted by some individual EU MS in the framework of the MP, which aim to support circular or temporary migration of GE citizens. In particular, Georgian Citizens can take up temporary employment in Poland without a work permit, and Germany allows Georgian citizens who have legal residence permits in Germany to leave Germany for longer periods (up to two years) than the usual six months without losing their residence titles.

⁸ Article 3 (b) and (c) of the Law on Diaspora Organizations and Compatriots

⁹ Article 3 (g) of the Law on Diaspora Organizations and Compatriots.

¹⁰ Article 11 (1) (c) of the Law on Diaspora Organizations and Compatriots; Article 4 (54) of the Law on Legal Status of Foreigners.

¹¹ Article 11 (1) (d) of the Law on Diaspora Organizations and Compatriots; Article 22 (7) of the Law on General Education; Articles 80 and 801 of the Law on Higher Education.

¹² Article 11 (1) (a) of the Law on Diaspora Organizations and Compatriots; Article 20 (4) of the Law on Sport.

Citizenship

Dual citizenship is not allowed for citizens of Georgia, unless granting Georgian citizenship to the person is in the interest of the Georgian state or if the person has made special contribution to the Georgia state (granted by the president).

The grounds for termination of citizenship of Georgia are: a) withdrawal from citizenship of Georgia; b) loss of citizenship of Georgia; c) other circumstances provided for by international treaties of Georgia.

A person loses citizenship of Georgia if he or she: a) enters into military service, police, bodies of justice, government or state power of a foreign state, without permission of competent bodies of Georgia; b) permanently resides on the territory of another state and has not registered in the consulate within two years, without due excuse; c) has acquired citizenship of Georgia by providing false documents; d) obtains citizenship of another state.

In 2011, Georgia acceded to the Convention relating to the Status of Stateless Persons.

Inward migration

Visa

Georgia has in place a visa-free regime for the citizens of more than 90 countries (including the CIS and EU/EFTA MS)¹³ - 4 types of visa exist: diplomatic, service, ordinary, study. Diplomatic, service and ordinary visas can be for stays up to 90 (single-entry) or 360 days (multiple-entry); study visas are up to 360 days.

Cross-border mobility

Foreigners can enter the territory of Georgia and exit from Georgia through the border checkpoints open for international travel when they have a valid travel document and a stay permit in Georgia.

The types of stay permits are:

- a) GE Visa;
- b) residence permit;
- c) Certificate of temporary residence for a refugee or a person with humanitarian status.

An foreigner may be denied entry into GE, if

- a) he/she does not have documents required for entry into GE;
- b) there were established facts of violation of the GE Criminal Law during his/her previous stay in GE, or during the last year before submission of an application, the person concerned was expelled or has not paid the fine imposed for illegal stay in GE;
- c) he/she has presented any false information or documents in order to receive a visa or enter GE;
- d) he/she does not have sufficient financial means for staying and living in GE, or for returning back;
- e) his/her presence in GE may pose threat to public order and security, to the protection of health, or to the rights and legitimate interests of citizens and residents of GE;

¹³ http://www.mfa.gov.ge/?sec_id=96&lang_id=ENG

- f) his/her presence in GE will harm relationships between the latter and any other foreign country;
- g) he/she does not provide information or provides false information about himself/herself and his/her travel intentions;
- h) other grounds for refusal envisaged by the legislation of Georgia.

Refusal to enter Georgia has to be made in a written form indicating grounds for refusal.

Irregular Migration

The Criminal Code sets sanctions for the illegal crossing of Georgian borders (Article 344) and for assisting a migrant in illegal border crossing (Art. 3441). The violation of the rules of stay/residence and illegal employment of foreigners are administrative infringements.

After the loss of the right to stay and before being apprehended, a foreigner, although de jure in irregular situation, can depart independently within 10 days. In this case neither administrative fine nor an entry ban is imposed. After 10 days, the border guard fines the foreigner. The fine can be paid either before or after leaving the territory. No entry ban will be imposed as long as the fine is paid.

A foreigner who entered or stays illegally or who poses a risk to public policy, public security or national security can be expelled from Georgia. The decision-making body in case of illegal entry/stay is the Ministry of Justice while in other cases it is a court of justice. If the decision is taken by the Ministry of Justice, 3 days are fixed for independent departure (non-compliance leads to forced expulsion). A court's decision on expulsion has to be implemented immediately (i.e. forced expulsion carried out by the National Bureau of Enforcement).

Administrative detention is possible for the purposes of identification or carrying out the expulsion decision. After 48h, a court's decision is needed. No time limit for such a detention is set. 1 year entry ban is imposed in case of expulsion.

Georgia ratified the so-called Palermo Protocols on THB and smuggling in 2006.

2006 Law Combating Trafficking in Persons lays down legal and organisational grounds for preventing and combating trafficking in persons in Georgia. It also defines the responsibilities and obligations of state agencies, officials and legal bodies, as well as the rules for the coordination of their activities. The Law determines the legal status of victims of trafficking and sets guarantees to their social and legal protection.

Rights and Settlement

Foreigners have the same rights as the citizens with the exception of the right to found/join or donate to political parties, vote in national or local elections.

Foreigners qualify to social and retirement benefits if they have legally resided in Georgia during the last 10 years. Persons with asylum, refugee or humanitarian status have the same rights to education as Georgian citizens.

There are two types of residence permits in Georgia: temporary and permanent.

The temporary residence permit is issued for no more than six years to a foreigner who:

- a) has been engaged in labour activities in Georgia;
- b) has arrived in Georgia for the purpose of medical treatment or study;
- c) has been invited by a relevant governmental agency, as a highly skilled expert or a cultural worker and such invitation is in the interests of Georgia;

- d) is a guardian or custodian of a Georgian citizen;
- e) is under the guardianship or custody of a Georgian citizen;
- f) is a family member a GE citizen or of a foreign citizen having a residence permit in Georgia;
- g) upon a grounded assumption can be a victim of trafficking;
- h) has been suspended citizenship of Georgia.

The permanent residence permit is issued, as a rule, to:

- a) a foreigner who has legally lived in Georgia for the last six years, excluding the living period for study or medical treatment and working period within the diplomatic and equivalent representation;
- b) a family member of a GE citizen;
- c) highly qualified specialists-technicians, sportsmen and art workers whose arrival is in the interests of Georgia;
- d) a person who has been suspended citizenship of Georgia.

A foreign citizen having a residence permit in Georgia has to register him or herself at the place of his or her residence within one month after entering the territory of Georgia or in case of being on the territory of Georgia after receiving the residence permit.

Labour

The Georgian legislation stipulates some limitations only with regard to the employment in the public service and also to becoming an attorney and occupying a notary's position. The Labour Code and the Law on Entrepreneurs do not provide for any limitations for foreigners to engage in employment relations or establish commercial legal entities or get registered as individual entrepreneurs in Georgia.

In order to enter Georgia for work purposes and perform labour activities in Georgia foreigners do not need to obtain work permits. They may enter into Georgia with ordinary visas, unless they fall under the visa exemptions.

Ordinary visa is issued for a period of 360 days, in the case of issuing ordinary visas at the border crossing points – for a period up to 90 days. After the expiry of the validity period of the ordinary visa, a foreign citizen willing to work or study in Georgia has to obtain a temporary residence permit. A temporary residence permit in Georgia is issued to those foreign citizens willing to stay in Georgia for not more than six years who are engaged in labour activity. After 6 years the person may apply for a permanent residence permit. In order to obtain a temporary residence permit on the basis of performing labour activities in Georgia the foreign citizen has to submit along with other necessary documents a document confirming labour activity in Georgia (labour contract or any other employment document); for persons of free profession - a certificate from bank, depicting turnover of sums on his/her personal account for the last year. The termination of residence permit occurs automatically upon the expiry of its validity period. One of the grounds for termination of the term of stay in Georgia is the termination of labour activities on the ground of which the residence permit was obtained.

Citizenship

Georgian citizenship is based primarily on the principle of jus sanguinis. Namely, a child whose parents were citizens of Georgia as of the date of its birth is a citizen of Georgia regardless of the place of birth. In the case where only one of the parents is a Georgian citizen, the child is considered to be a citizen of Georgia if it was born:

- a) on the territory of Georgia;
- b) outside the borders of Georgia but one of the parents has a permanent place of residence on the territory of Georgia;
- c) one of the parents, at the date of a birth of a child (regardless of the place of birth) is a citizen of Georgia and the other is a stateless person or unknown.

Where only one of parents is a Georgian citizen and both of the parents reside outside the territory of Georgia, the question of citizenship of the child born outside the borders of Georgia shall be determined by an agreement of parents. In the absence of such agreement - by the legislation of the state of birth.

Preconditions for naturalization are: 5 years of permanent residence, knowledge of the Georgian language, history and legislation, legal means of income or real estate in Georgia or shares in either capital or stocks of companies, registered in Georgia.

Facilitated naturalization for persons with merit to Georgia or mankind or profession or qualifications, which are of interest to Georgia, for spouses of Georgian citizens and for persons with repatriate status.

CHAPTER 3

Institutional and Policy Framework on Migration and Asylum

**On Migration Policy Framework
in the Republic Armenia (RA)**

HAYKANUSH CHOBANYAN

Socio-Political Module

Until 2000 there wasn't any comprehensive document defining the state regulation policy in migration field. The state regulation policy, implemented by the Republic of Armenia (RA) in the area of migration, was mainly directed at the solution of the problems of large refugee masses coming from Azerbaijan, Nagorno Karabagh and other former USSR countries. Thus, the policy of state regulation of this area during 1988-1999 was mainly based on *day-to-day management*¹:

For the first time the RA Government adopted a complete document on the state regulation policy of migration by approving the Concept of State Regulation of Migration in the Republic of Armenia in 2000.

The document consists of the preface and three main chapters. The first chapter-- "Provisions of the Republic of Armenia State Migration Policy", lists the principles, major tasks, the mechanisms and directions for their solution. The second chapter envisages the necessary changes necessary to make the legal and legislative sphere on migration conformable with state migration policy major tasks. The state entities dealing with migration, as well as activities carried out by them are listed in the third chapter. Proposals for reviewing certain activities and mechanisms, ensuring strong collaboration between the entities of migration system based on the necessity of implementation of state migration policy major provisions in rational and productive administrative structure, are highlighted in the same chapter. "Migration Situation Assessment of the Republic" and "Analysis of RA Acting Legislation in Terms of Regulation of Migration Processes" documents are attached to the Concept as informative documents².

After adoption of the first Concept Paper, which was conditioned by some changes in migration situation and new issues in Armenia, the RA Government revised and adopted a new Concept Paper in June 2004. This Concept Paper was defined considering the demographic situation, national security, and sustainable human development principles of Armenia. It aimed to reinforce human rights the principles laid down in international documents³. It mainly repeated the same structure of the previous Concept Paper, except for two new priorities, which had become the challenges of that time.

- *Preventing illegal migration from the Republic of Armenia and supporting the return and reintegration in the Republic of Armenia of Armenian citizens illegally staying abroad.*
- *Preventing smuggling and trafficking of humans from the Republic of Armenia and developing victim protection arrangements*⁴.

Both concepts had gaps. Specifically,

- *it would be expedient to have Action Plans for the Concepts, which would increase the practical implementation of the policy approaches set in the Concepts;*
- *the Concepts were not evaluated from financial point of view;*
- *the mechanisms of monitoring and efficiency evaluation of the migration policy process were not defined.*

Perhaps due to the above-mentioned conditions, the RA state system of migration regulation, combined with the political approaches, as well as the former institutional and administrative mechanisms, was incapable of effectively solving the migration problems faced by the RA.

In fact, until now the day-to-day, reactive policy of the RA is directed, as a matter of priority, at the consolidation of the legislation in this area. Nevertheless, this has not automatically lead to improved positive impact of the RA migration policies and to the prevention and reduction of their negative

¹ The "Concept for the Policy of State Regulation of Migration in The Republic of Armenia" was adopted as Appendix to the RA Government Session Record Decision # 51 dated December 30, 2010, p. 3.

² The "Concept of State Regulation of Migration in the Republic of Armenia" was adopted as Appendix to by the RA Government Session Record Decision # 54 dated November 29, 2000, p. 3.

³ The "Concept Paper on State Regulation of Population Migration in the Republic of Armenia" was adopted as Appendix to the RA Government Session Record Decision # 24 dated June 25, 2004, p. 3.

⁴ Ibid. pp. 4-5.

consequences. Therefore, **it was time to switch from a passive-contemplative and operative-reactive policy to proactive-foreseeable migration policy.**

With European Neighborhood Policy and Eastern Partnership initiatives Armenia has handled new responsibilities in this field. Besides, the RA government announced EU integration as a developing priority political direction which foresees new approaches to migration, and accepts that migration situation has changed as follows:

- Passenger flows to and from Armenia have increased (with the exception of the crisis period, during which the rate has decreased)⁵.
- Tendency for returnees' flows to Armenia is visible, which is a new phenomenon in RA in comparison with the situation in the past years⁶.
- The volume of money transfers, sent to Armenia by the individuals has increased (with the exception of crisis period during 2008-2009). These transfers have gained an important role in RA economy and social life⁷.
- More trafficking/human being exploitation issues have been revealed in Armenia which is a new phenomenon in post-soviet Armenia⁸.

In order to fill the gaps, as well as to take into account new realities, the development of a new Concept Paper became crucial. The new Concept of State Regulation of Migration in the Republic of Armenia was approved by the RA government protocol decision N 51, in December 30, 2010. Fourteen priority issues are set in it, each priority issue has its goal and main approaches and mechanisms for achieving the objective.

Three priority issues out of mentioned 14 ones are quite new problems with their solution approaches:

1. Approximation of the RA legislative framework of migration regulation and the administrative system with the corresponding EU legislation and the best institutional structures of the EU member states taking into consideration national and state interests.
2. Development of an information system for registering migration flows.
3. On the basis of the analysis and evaluation of the migration situation of the Republic of Armenia, the monitoring and evaluation of the progress of the implemented migration policy, introduction of a system of its day-to-day review and adjustment.

Five priority tasks were previously defined, but the Concept suggests new approaches for their solutions. These are:

1. Assistance to the return of RA nationals from foreign countries and to their reintegration in their homecountry.
2. Prevention of irregular migration originating in the RA, improvement of the legislative framework related to irregular migration.
3. Regulation of the employment conditions of foreign nationals in the RA with a view to ensure the priority right of RA nationals to employment vis-a-vis foreign nationals in the territory of the RA.

⁵ Volumes of International Border Crossings in 2000-2010 according to Data of Passengers' Record on Border Crossing Points of the RA: <http://www.backtoarmenia.com/?hcat=85&scat=87>

⁶ Minasyan A., Poghosyan A., Gevorgyan L., Chobanyan H. (2008). Study on Return Migration to Armenia in 2002-2008. Yerevan. Asoghik. http://www.osce.org/yerevan/item_11_35901.html. Chobanyan, H. (2010). The Reintegration Issues of Migrants Returning to Armenia.

⁷ RA Central Bank data on money transfers via the Armenian banking system and for non-commercial purposes during 2005-2010: http://www.smsmta.am/?menu_id=52

⁸ Migration and Human Development: Opportunities and Challenges. Human Development National Report Armenia. UNDP, 2009, pp. 92-94.

4. Protection of rights and interests of the RA citizens leaving for work abroad.
5. Ensuring the implementation of the policy of integration of the refugees forcibly deported from Azerbaijan in 1988-1992 into the Armenian society.

Two priority issues are new. These mainly refer to the introduction of the system of biometric e-passports and identity cards, and the improvement of the RA border management system. Moreover, several issues remain of high priority for the Government. These are the improvement of the asylum system, organization of the fight against trafficking and protection of the victims of trafficking, regulation of mass movements of the population at times of emergencies and mainstreaming of the internal migration processes.

In order to ensure implementation of the Concept Paper, the “Action Plan for Implementation of the Policy Concept for the State Regulation of Migration in the Republic of Armenia in 2012-2016” was adopted by the RA Governmental Decree # 1593 –N in November 10, 2011.

The Action Plan solves 14 issues set in the Concept of State Regulation of Population Migration. Particularly, as a result of the measures carried out in the framework of the Action Plan, the legislation of the Republic of Armenia in the area of migration has to conform with the EU legislation and the best institutional infrastructures;⁹ the system of border management¹⁰ and provision of asylum should be improved; the fight against human trafficking and protection of victims of human trafficking should also become more effective. The action plan will also introduce an information system for recording migration flow¹¹. The latter will allow competent authorities to work together and gain more reliable, comprehensive understanding of the migration situation. Besides the abovementioned, mechanisms for receiving information on migration from alternative sources, including a representative research on migration flows every 2-3 years, will be developed.

The Action Plan will also be intended for protecting the rights and interests of RA citizens leaving for work abroad. At the same time, several measures¹² are intended to prevent irregular migration originated from Armenia, as well as support the return and future reintegration of the RA citizens in Armenia.

The integration of refugees deported from Azerbaijan during 1988-1992 will continue. A program will be developed to address the housing issues of refugees and the involvement of international donors.

For the upcoming five years, as a result of the implementation of the Action Plan of the Policy Concept for the State Regulation of Migration in the Republic of Armenia in 2012-2016, the system of providing protection to foreigners and stateless persons on the humanitarian bases by the RA will be improved. The action plan will also help introduce electronic passports with biometric information and IDs (to increase the level of protection of documents for identification of a person and to facilitate the mobility of RA citizens’).

⁹ The Activities 1.1-1.4 are foreseen for the Issue 1 of the Draft Action Plan, pp. 5-7.

¹⁰ Measures targetting the solution of the Issue 3 on the “*Improvement of the Border Management System of the RA with the help of introduction of integrated border management principle*” are defined by the RA Government Decision N 482-N of April 21, 2011, which approves the 2011-2015 Action Plan of Ensuring Border Security and Integrated Management of State Border.

¹¹ The Activities 4.1-4.3 are foreseen for the Issue 4 of the Draft Action Plan, pp. 9-13.

¹² The Activities 8.1-8.4 are foreseen for the Issue 8 of the Draft Action Plan, pp. 22-25.

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**On the Institutional Structure of Migration
in the Republic Armenia (RA)**

HAYKANUSH CHOBANYAN

Socio-Political Module

Analyses of migration management systems in different countries of the world show that there are the following scenarios:

1. Migration functions are implemented by only one state entity (centralized management).
2. Migration functions are distributed among different entities, but there is one coordinating entity (decentralized management).
3. Different entities have various migration functions but there is no coordination¹.

The current migration management model in the Republic of Armenia (RA) is decentralized, in the sense that various functions and operations – such as control over entry, stay, residence and exit of foreigners, emigration of nationals, labour migration, asylum, etc. – are performed by different governmental entities.

In order to reform the migration management system, an inter-agency working group was established by the decision of the Prime Minister of Armenia No. 304 dated 16 April 2009. The working group has made recommendations on reforms of the migration sector. These recommendations were presented and were endorsed by the RA Government and as a result, by the decree of the President of the Republic of Armenia dated 18 November 2009, the State Migration Service (SMS) was established within the Ministry of Territorial Administration of the Republic of Armenia. The government of Armenia approved the charter of the Service on 17 December 2009. It has a higher status in comparison with the previous Agency. The coordination of activities among the governmental institutions dealing with migration issues in the area of **policy development** is one of the key functions that the Service deals with, thus after the reforms 2-nd and 3-rd scenarios (mentioned above) are more applicable to Armenia.

The SMS has started its functions from the 1st of April 2010, with a structure of 6 departments² and 35 employee altogether, among which 26 are civil servants, 3 are discretionary positions and 6 are technical staff³.

Before these recent developments, the SMS was acting as the State Department for Migration and Refugees⁴, an executive body with a mission to deal with migration issues. As a result of structural reforms in the Government of Republic of Armenia in 2005, the Department was included into the Ministry of Territorial Administration and was renamed into “Migration Agency”. The scope of the Agency’s activities, along with the problems of refugees, asylum-seekers and internally displaced persons (IDPs), was re-framed and extended to the development of migration policy and legislation, overseas labour migration, resettlement and various other migration related issues.

Responsibilities and Tasks of Government Bodies Involved in Migration Management

The State Migration Service⁵ (SMS) is the central authority responsible for the development and implementation of the state policy on management of migration processes, as well as for the coordination of activities of the governmental institutions dealing with migration issues in the area of policy development and drafting legal acts. SMS is also responsible for granting asylum to the foreign citizens and stateless persons. The SMS develops and implements programs in accordance with the

¹ Usher, Erica (Chief Ed.) for International Organization for Migration, “Essentials of Migration Management. A Guide for Policy Makers and Practitioners”. International Organization for Migration (2004). Volume I.

² Divisions are the following: Migration Policy, Asylum Issues, Refugees’ Issues, External Relations, Finance and Accounting, General Division

³ See the Organigram of the SMS here: <http://www.smsmta.am/?id=32>

⁴ Was established in 1999 by the Governmental Decree.

⁵ Official web pages: www.smsmta.am and www.backtoarmenia.am

integration policy adopted by the state in respect to the refugees forcibly displaced from the Republic of Azerbaijan in 1988 -1992. It also develops and implements the relevant programs aimed at combatting illegal migration. The SMS is also the main body responsible for the implementation of readmission agreements, and is actively involved in drafting texts of agreements, writing conclusions/comments, as well as dealing with the implementation⁶.

Other state structures involved in the management of migration in Armenia are the following:

Ministry of Foreign Affairs⁷ (Consular Department and its Migration Desk, Legal Department) is the coordinating body for international projects and is responsible for issuance of visas, passports, and return certificates as well as for the issuance of the special residency status and the relations with Armenians abroad. The MoFA has furthermore partial access to the Border Management Information System (BMIS) database and to the Passport and Residence database managed by Police.

Ministry of Diaspora⁸, established in 2008, is responsible for development, implementation and continuous improvement of the state policy on development of the Armenia-Diaspora partnership and the coordination of the activities of the state bodies in this field. The Ministry has developed and is carrying out potential pan-Armenian projects aimed at developing the Armenia-Diaspora partnership. The Ministry also contributes to the implementation of educational projects; the development of Armenian schools in the Armenian Diaspora; the preservation of Armenian identity, as well as at protection, development and dissemination of Armenian cultural heritage; the strengthening of the Armenian identity among Armenians who speak foreign languages (their “Hayadartsutyun”, return to the roots); the repatriation of Diaspora Armenians and pilgrimage of Diaspora Armenian youth to Armenia.

National Security Service⁹ (NSS) (2nd Division on Combating Illegal Migration of the General Second Directorate and, Border Guards Troops) deals with the border management and control. In case a foreigner applies for a special residence status, Department of Passport and Visas of the Police (OVIR) sends the applications to the NSS for its opinion.

Border Guards Troops under the NSS have a Border Control Detachment in charge of border management and control. They manage the Border Management Information System¹⁰ (BMIS) database. There are 14 border crossing control points in Armenia --7 land borders checking points and 5 airports. The border with Azerbaijan is closed at present, as is the border with Turkey. The border guards subject to the National Security Service patrol Armenia's borders with Georgia and Azerbaijan, while Russian Border Guards¹¹ continue to monitor its borders with Iran and Turkey.

The Police¹² has two main departments responsible for migration issues:

The first, the Division of Combating Illegal Migration and for International Collaboration was established in 2003 and investigates cases of illegal state border crossing; swindling; and forgery, sale or use of forged documents, stamps, seals, letterheads, vehicle license plates; and deals mostly with

⁶ The SMS has no function in matters of residence permits, visa or border management.

⁷ Official web page: www.mfa.am

⁸ Official web page: www.mindiaspora.am

⁹ Official web page: www.sns.am

¹⁰ The Government Decision # 884-N of 22 June 2006 “On Creation of the Electronic Border Management Information System, Defining the Procedure for its exploitation and the List of its Users” regulates the electronic management of flows through the state border crossing control points.

¹¹ In accordance with the “Treaty on Friendship, Cooperation and Mutual Assistance and the Declaration on the Collaboration towards the 21st Century” of December 29, 1991, Russian Federal Border Guards Troops control Armenia’s borders with Turkey and Iran.

¹² Official web page: www.police.am

RA citizens who become irregular migrants. Illegal immigration actually does not present a serious problem in Armenia. In contrary, illegal emigration is of more interest of Armenian authorities while emigrants tend to leave the country legally, but become illegal in destination country due to their overstaying in the destination country.

The second department of the Police, the Department of Passports and Visas¹³ within the structure of the **Police**, is responsible for visa issuance at the borders, visa extension, granting of residence status/residence permits, registration of foreigners on the territory, issuance of exit stamps (passport validation) for RA citizens and operates the Passport and Residence database of the citizens of the Republic of Armenia.

National Statistical Service of the Republic of Armenia¹⁴ (**ArmStat**) collects, processes, summarizes, analyses and publishes statistical data, including migration related data, co-ordinates the information and data collection according to the unified classification and coding system based on international standards, organizes statistical surveys, carries out Population censuses. ArmStat also collects data on remittances, on immigrants and emigrants¹⁵.

Ministry of Labour and Social Issues¹⁶ (Department of Labour and Employment; State Employment Service Agency; State Labour Inspectorate) in accordance with its code adopted in 2004 develops and implements RA Government policy on labour and social security and is responsible for analysing the labour market situation and disseminating information regarding the work opportunities.

State Employment Service Agency¹⁷ (Agency) is a separate division of the RA Ministry of Labor and Social Issues. The task of the Agency is to implement State policy on employment regulation. The Agency is authorized to implement projects/programmes to regulate internal and external labour drifts. According to its Code, the Agency can make contracts with foreign countries and organisations to supply migrant workers, however there is no defined concrete mechanism in this sphere (mostly declarative) and there are no practical results.

Besides, International Organizations¹⁸ and NGO's¹⁹ also play active role through implementation of different projects and programs in migration field.

¹³ Official web page: www.passportvisa.am/

¹⁴ Official web page: www.armstat.am

¹⁵ The main data sources are: 1. The data on the migration of population is defined based on the statistical processing of data from the statistical records (forms on arrivals and departures) presented by territorial passport services of the Police (they are compiled by the addresses at the time of population's registration and the registration of departures), but it does not reflect the real volume of population movements, since a considerable proportion of population leaves the Republic and resides abroad for a rather long period of time without being struck off the register. 2. The data on external passenger transportation (arrivals and departures in/from the republic) is presented as total volumes of passenger turnover implemented through RA Border Crossing Controls. 3. An alternative for the above-mentioned administrative information sources are the households' surveys that enable to derive information on destination country and reasons for departing of the household members who are in migration.

¹⁶ Official web page: www.mss.am

¹⁷ Official web page: www.http://employment.am/en/index.html

¹⁸ See the Annex 1

¹⁹ See the Annex 2

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Annex 1

International Organisations

The International Organization for Migration (IOM) Mission in Armenia²⁰ is one of several international organizations dealing directly with migration issues.

The Republic of Armenia joined IOM as a member in 1993 and the IOM office in Yerevan was opened in 1993. Its Micro-Enterprise Development Project offices in Yerevan and Gyumri were set up in 1997 and 1998 respectively. The Migration Resource Centre opened in September 2006.

IOM Objectives in Armenia are:

- *To assist the newly independent State of Armenia in achieving border management practices that strike the right balance between control and facilitation and are consistent with best international standards.*
- *To reduce and prevent the trafficking and smuggling of persons.*
- *To enhance the self-sufficiency and integration of returnees, trafficked victims, refugees, internally displaced and low income persons.*
- *To assist the Government in Labour Migration management.*
- *To enhance the capacity of national NGOs to address migration issues.*
- *To revitalize and develop rural communities.*

The IOM implements a number of programmes in the migration sector. Currently implemented projects in migration management are the followings:

“Technical Assistance to the Armenian Government to initiate labour migration arrangements”(December 2010 – May 2012). The Project is intended to provide technical advice to the Armenian Government to initiate labour migration arrangements and to contribute to preparing the Government of Armenia to manage the overseas recruitment and circular labour migration of the Armenian workforce abroad. The technical assistance will entail: (a) elaboration of the procedures and documentation for state regulation and management of labour emigration; (b) capacity building for the relevant officials in labour migration; (c) facilitation of the negotiations with selected countries with demand for labour force (Qatar and Kazakhstan); (d) public awareness and strengthening the role of media in protection of migrants’ rights.

“Stemming Illegal Migration in Armenia and Georgia and Enhancing Positive Effects from Legal Migration” Project (October 2009 – March 2011). The Project will analyse the needs in data collection, map the existing data collection sources, and establish migration data collection mechanisms to analyze migration flows. The Project will further support the Migration Resource Centre (localized to the Armenian State Occupation Agency Service under the Ministry of Labour and Social Issues) as well as enhance the Government’s capacity to identify and manage circular migration opportunities with the EU.

“Capacity Building for the Border Control Detachment of the Border Guards Troops under the Armenian National Security Service” Project (January 2010 – June 2011). The Project developed a curriculum for the Border Guards’ Training Center for regular continued trainings for the personnel of border guards and for the inception training of the new inductees; trained trainers in document examination, fraud detection, in combating migrant smuggling and human trafficking, in computer

²⁰ http://www.iom.int/armenia/about/iom_in_am.htm

skills and BMIS operation, in migration and border control related legislation, including international; migration law, in asylum and in IBM. The project also organized cognitive trips to European states for examination of their Border management capacities and policies.

“Capacity Building for the RA Police Division for Combating Illegal Migration” Project (May 2010 – October 2011). The cooperation has been requested by the Police and the Project will aim at building the capacities of the Police through training programmes and exchange of advanced expertise in combating illegal migration.

“Support to Armenian Government in Introduction of Identity and travel documents with Biometrical Parameters” Project (June 2009 – June 2011). The Project aims at the development of a national action plan for introducing an electronically enabled machine-readable passport in accordance with the interoperable standards and specifications developed by ICAO in Armenia. Following a Needs Assessment, Report with concrete recommendations has been submitted to the RA Government and has been used when preparing the bid for the passport and id. The project also includes training on identity management, an experience exchange programme, and technical expertise on the finalized tender ToR text.

«Return and Emigration of Asylum-Seekers Ex Belgium (REAB) Programme» ongoing Project includes AVR related queries and AVR assistance to voluntary returnees from Belgium.

“Services to Residents of Armenia applying for Canadian Temporary Visas and Migration to Canada under “Skilled Worker Category”” ongoing Project provides pre-consular services for Armenian citizens and residents applying to the Canadian Embassy in Moscow for non-immigrant visas, under the Canadian Government programme for legal immigration for qualified skilled workers

“Micro-Enterprise Development programme” ongoing Project helps individuals (including asylum seekers, VoTs, refugees and displaced persons) to become self-sufficient through micro-credit schemes, including micro-enterprise training, credit and employment opportunities.

“Socio-Economic Reintegration Programme for Mine Victims in Armenia” (January 2010 – December 2012). The project aims at socio-economic re-integration of mine victims and their families through provision of micro-credits; through enhancing the national institutional set in the field of mine victim assistance and disabilities in general; as well as by promoting public awareness and regional cooperation and networking.

“Post-Arrival Counseling, Referral and Reintegration Support” (February 2010 – February 2011). The Project focuses upon post-arrival assistance, which contributes to the sustainable return of migrants.

“Strengthening Evidence-Based Management of Labour Migration in Armenia” Project (January 2011 – December 2013). The overall objective of this Project is enhancing management of the labour migration flows from Armenia. Through the Project an environment for circular migration of Armenian workers will be enabled via promoting bilateral labour agreements between the government of Armenia and governments of destination countries. The capacities of private employment agencies will be enhanced to match labour demand and offer; and at the same time the national capacities in migration data collection, analysis and policy formulation will be strengthened. The awareness towards possible approximation of legislation on migration management with EU acquis will be raised as well. Expertise will be provided for development of the draft National Plan of Action for Migration Management for 2011-2014. The dialogue and advocacy for policy change, specific actions and space created for exchanging practices, sharing the knowledge and discussing practical issues, as well as the advocacy for public-private partnership schemes and their broad public exposure achieved by this project will enhance the capacities of Armenian government and its diplomatic missions to provide better consular services to Armenian migrant workers abroad and to protect their rights and lawful interests more effectively.

The International Labour Organization (ILO) activities in Armenia are coordinated by the ILO Subregional Office for Eastern Europe and Central Asia in Moscow and are supported by the ILO National Correspondent in Yerevan.

Priorities for the cooperation between the ILO and the Republic of Armenia for 2007-2011 were formulated in a **Decent Work Country Programme** signed in Yerevan in March 2007 by the ILO Subregional Director and the tripartite partners - government, employers' and workers organizations. An important contribution to international development framework (PRSP, the United Nations Development Assistance Framework (UNDAF), national Millennium Development Goals strategies and other integrated development plans), DWCP for Armenia prioritizes the improvement of employment policies.

ILO also implements a number of projects in the migration sector and has conducted two related studies: *"Migration and Development"* and *"Remittances and Development"*.

Currently ILO implements ***"Increasing protection of labour migrants in the RF, and enhancing the development impact of migration in Armenia, Georgia and Azerbaijan"*** Project (September 2010-January 2012). The Project Objectives are: (1) to ensure that migrant workers have access to information on admission rules and procedures, rights and access to trade union services and participation and. (2); to assist State Migration Service in developing a National Action Plan for the implementation of the state migration strategy; (3) to create/strengthen mechanisms for migrants, diaspora and returnees to contribute to development in their country of origin. (4) to assist in signing bilateral agreement between Armenian and Russian Trade Unions on assisting and protection of labour migrants.

The Office of the United Nations High Commissioner for Refugees (UNHCR)

UNHCR established its presence in Armenia in 1992 in response to the request of the government of the Republic of Armenia for assistance to deal with the mass influx of nearly 400,000 ethnic Armenian refugees from Azerbaijan to ensure that their humanitarian needs i.e. basic health care, food assistance, winterization programme, psycho-social support, education, language and vocational training as well as provision of housing are met – so far UNHCR has provided more than 3,500 refugee families with permanent shelter since the beginning of its shelter activities in 1994. During the past five years, due to the war in Iraq, some 1,000 persons applied for asylum in Armenia and were granted Temporary Asylum (TA) status. Although most of them are ethnic Armenians, they face constraints when trying to integrate in the Armenian society.

Currently UNHCR deals with *prima facie* refugees from Azerbaijan, including naturalized former refugees of ethnic Armenian origin, refugees from Iraq currently holding Temporary Asylum (TA) Status and those, recognized through individual refugee status determination procedure, i.e. refugees and asylum seekers originating from countries other than Azerbaijan. UNHCR Armenia carries out part of its activities through its Implementing Partners (IPs).

The current activities of UNHCR in Armenia include:

- - Basic Psycho-Social and Health-care Assistance,
- - Social Housing for extremely vulnerable refugees,
- Livelihoods
- Strengthening National Legal Asylum Framework
- Capacity Building – SPCP-SC
- Legal Assistance and Counseling
- Identification of and Response to Sexual and Gender Based Violence amongst Refugees and Asylum Seekers in Armenia
- Promotion of Refugee Law/Capacity building
- Border management .

United Nations Development Programme (UNDP)²¹

UNDP Country Office in Armenia was established in 1993. As in other countries, UNDP in Armenia supports the government to accomplish the millennial development agenda and reach the overarching goal of cutting poverty in half by 2015.

The UNDP focus is helping Armenia build and share solutions to the challenges of:

- Achieving the MDGs and reducing human poverty
- Fostering democratic governance
- Managing energy and environment for sustainable development
- Supporting crisis prevention and recovery

A Migration section was added to the UNDP Anti-trafficking programme in the second period of the program (2006-2009). On 17th of November, 2007 a Memorandum of Understanding was signed between the United Nations Development Programme in Armenia and the Migration Agency at the RA Ministry of Territorial Administration, launching of the 'Travel Safe': Pre-migration Registration and Due Diligence Inquiry Programme. The cooperation with the Migration Agency has been made possible through UNDP Anti-Trafficking Programme: Capacity Developing Support and Victims Assistance launched back in 2004, which entered its Phase II in September 2006²². Consultancy centres for migrants were established in Yerevan in 2008 at the RA MTA Migration Agency and Municipalities of Artashat and Gyumri.

“Supporting to the Integrated Border Management Systems in the South Caucasus (SCIBM)” (January 2010 – July 2012). Overall objective is to enhance inter-agency, bilateral and regional co-operation between the SC countries, EUMS and other international stakeholders; to facilitate the movement of persons and goods across borders while at the same time maintaining secure borders.

The Organization for Security and Cooperation in Europe (OSCE)²³ has a section in its democracy programme to combat trafficking and permit free movement. Although most of the work relates to trafficking problems, the OSCE Yerevan office emphasised that trafficking is closely connected to labour migration, as the victims of trafficking are mainly potential labour migrants. The OSCE has completed several studies in the migration sector:

- Conducted, through the Advanced Social Technologies (AST) NGO, a study on Labour Migration from Armenia in 2002-2005
- In cooperation with CIMERA Swiss NGO, conducted a study on Migrants' Families and Returning Migrants in Armenia (2006)
- Conducted, through the Advanced Social Technologies (AST) NGO, a study on Labour Migration from Armenia in 2005-2007
- Conducted an Assessment of the Migration Legislation in the Republic of Armenia (2007), involving national and international experts
- Conducted, through the AST, a study on the Return Migration to Armenia in 2002-2008
- Supported the Revision of the Armenian State Migration Management Concept (2010)

“Support to the State Migration Service of the Ministry of Territorial Administration for developing a comprehensive Migration Management National Action Plan”. The Project implemented by the OSCE in cooperation with the ILO office in Armenia. The overall goal of the Project is to support the Armenian state and non-governmental agencies in improving the country’s migration management system through developing a National Action Plan for the implementation of the state migration strategy.

²¹ www.undp.am

²² Source: <http://www.undp.am/?page=LatestNews&id=403>

²³ <http://www.osce.org/yerevan/43700>

Annex 2

Non-governmental Organisations

- **Eurasia Partnership Foundation²⁴ (EPF)**

EPF established *six Migration and Return Resource Centers*²⁵ in partnership with local institutions (NGOs and intercommunity unions) already operating in Armenia's regions.

Partner organizations were selected based upon their ability to function as a resource center and their commitment to providing services to potential migrants and returnees. Each center offered pre-departure counselling to potential migrants; vocational training opportunities for returnees; information on organizations at home and abroad that provide social assistance to migrants and returnees; and information on employment opportunities in Armenia. With support and guidance from Eurasia Partnership Foundation, staff from the Migration and Return Resource Centers gathered information on local trends in labor migration and on the difficulties encountered by labor migrants while abroad. MRRC staff will work with EPF to analyze this data. The results of the analysis will be summarized in a report and disseminated to government agencies in Armenia working in the field of labor migration. This approach will develop the capacities of the MRRCs to monitor trends in labor migration in the communities they serve and to better develop services that are tailored to the needs of returnees and potential labor migrants. Funding has stopped, but some of the centres continue to operate on a voluntary basis.

The Armenian UN Association²⁶ and "People in Need"²⁷ a Czech NGO, jointly run the programme "*Reinforcement of Management of Migratory flows in Armenia*"²⁸ project in the scope of the EU "*Thematic Programme of Cooperation with Third Countries in the Areas of Migration and Asylum*" (February 2009 – February 2012) with funding from the Czech Government and the European Commission.

The project overall objectives include: prevention of Armenian citizens from illegal migration, re-integrate those who want to return, to mitigate reasons for migration from Armenia. Project aims at increasing inter-agency cooperation on migratory flows, at increasing public awareness of risks related to illegal migration; ensuring potential migrants access services resulting in the establishment and operation of 5 information centers on migration.

- **The International Centre for Human Development²⁹ (ICHD) NGO**

ICHD is a think tank which is active in migration policy and programs related activities. ICHD implemented the "*Support to Migration Policy Development and Relevant Capacity Building in Armenia*"³⁰ (January 2007 - December 2009) programme, funded by the EU in co-operation with the British Council and the State Migration Service of Armenia. The aims of the programme were the development a national policy dialogue on migration management, provided institutional support on migration management to the Armenian authorities and facilitated reintegration assistance to Armenian returnees through a web-portal and IT-integrated interagency-network (BackToArmenia web portal).

²⁴ www.epfound.am

²⁵ Source: <http://www.epfound.am/english/accomplished/labor-migration.html>

²⁶ www.auna.am

²⁷ www.migrant.am

²⁸ Source: http://www.auna.am/index.php?option=com_content&view=article&id=34&Itemid=18&lang=en and <http://www.migrant.am/s/index.php/en/eu-program-2009-2012>

²⁹ www.ichd.org

³⁰ Source: <http://www.ichd.org/?laid=1&com=module&module=static&id=245>

The Project “*Post Arrival Assistance to Armenian Returnees from the Netherlands*” (July 2010 – June 2012) is funded by the European Return Fund and implemented by the ICHD and the Repatriation and Departure Service of the Ministry of Justice of the Kingdom of the Netherlands. The project aims at fostering social and economic re-integration to Armenian nationals without legal right to reside in the Netherlands and preventing their irregular re-migration to EU member-states, through providing comprehensive assistance and advice (sustainable return). The project will achieve this goal through four interlinked specific objectives: (i) assistance to employment and self-employment of returnees; (ii) assistance to education and training of returnees (including education of children and vocational education and development of professional skills); (iii) medical assistance (including voluntary medical examination and health diagnosis, medical treatment upon the need, and social-psychological consultancy and aid); (iv) legal assistance (including consultancy and advices on legal, labor market, social welfare, assistance related to documents, etc.).

The Project “*Strengthening Evidence-Based Management of Labour Migration in Armenia*”(January 20011 – December 2013), is implemented by the Armenian NGO International Centre for Human Development (ICHHD) in partnership with IOM and aiming at enhancing the flow of labour migration flows from Armenia to EU MS. The overall objective of this Project is enhancing management of the labour migration flows from Armenia. Through the Project an environment for circular migration of Armenian workers will be enabled via promoting bilateral labour agreements between the government of Armenia and governments of destination countries. The capacities of private employment agencies will be enhanced to match labour demand and offer; and at the same time the national capacities in migration data collection, analysis and policy formulation will be strengthened. The awareness towards possible approximation of legislation on migration management with EU acquis will be raised as well. The dialogue and advocacy for policy change, specific actions and space created for exchanging practices, sharing the knowledge and discussing practical issues, as well as the advocacy for public-private partnership schemes and their broad public exposure achieved by this project will enhance the capacities of Armenian government and its diplomatic missions to provide better consular services to Armenian migrant workers abroad and to protect their rights and lawful interests more effectively.

- **Armenian Caritas³¹**

Armenian Caritas implemented “*Sustainable Reintegration after Voluntary Return*”³² program from the Armenian part and the Belgian Government and the Caritas Belgium from the Belgian part. The goal of the Program to improve the chances on a successful reintegration of the migrants returned from Belgium. The direct beneficiaries of the Project are the returnees from the Belgium.

Besides the mentioned project from 2006-2012 the Caritas Belgium jointly with its local partners Armenian Caritas and “Mission Armenia” NGO implemented “*Information on Return Country*” project funded by the EU Community. The goal of the project is to provide Armenian migrants in Europe with certain information which will help them to make a final decision to return.

Currently Armenian Caritas implements “*Migration and Development*”³³ Project (2010 –2013). The Project is funded by the Government of Liechtenstein and Caritas Austria. Implemented Partners are Caritas Armenia and Caritas Austria. The Project’s aim is to promote links between migration and development in the Armenian context by contributing to the establishment of sustainable reintegration measures for returnees to Armenia and creating an effective, client centered information system for potential migrants from Armenia. The project aims at mitigating “Brain drain” through advocating for circular migration and provision of risks on illegal migration to potential migrants; support the reintegration process of voluntary returnees through providing

³¹ www.caritasarm.am

³² Source: <http://www.caritasarm.am/index.php/en/projects/migration-a-integration/migration-a-integration>

³³ Source: <http://www.caritasarm.am/index.php/en/projects/migration-a-integration/migration-and-development>

assistance in economical stability and social protection; promote measures to improve the contribution made by the Armenian Diaspora to the development of Armenia through creation of special Diaspora Mentor fund within Armenian Caritas structure; support the policy making and policy dialogue procedures through conducting research in the field of migration and organizing regional discussions and networking activities.

- **“French-Armenian Development Foundation in Armenia”³⁴ (FFAD)**

FFAD implements the “*Return to Sources*”³⁵ Armenian-French project from the Armenian part, and from the French part the National Agency for the Reception of Foreigners and Migration under the French Government (OFII), and the Armenian Association of Social Aid (AAAS) in France. The aim of the project is to organize the voluntary return of the RA citizens in the state of illegal migrant in that country and to support their further reintegration locally in cooperation with the French part.

Starting from 2008, the Project “*Institutional capacity Building in the field of migration information and cooperation regarding reintegration of Armenian migrants*”³⁶ launched in the framework of the EC Thematic Programme on Migration, whose objective is to support third countries in the migration management sector in partnership with AAAS, FFAD, the Migration Agency of the Ministry of Territorial Administration of Armenia and OFII as a Project leader. The project is aimed at preventing illegal migration and strengthening links between migration and development.

- **Save the Children³⁷**

Save the Children has been operating in Armenia since 1993. Since 2006 Save the Children Armenia office has been operating programs for refugees living in Armenia. Programs aim to make more favorable social services for refugee inhabited communities such as providing preschool education, house building and providing, training classes on healthcare services, etc. During these Projects Save the Children carries out need assessment of targeted communities and implements programme actions based on the results of assessment. In the framework of the presented Project Save the Children will handle the role of co-operator institution and will provide data on refugee inhabited communities: social-demographic distribution of communities, employment, key problems, and descriptions of the communities’ infrastructure.

- **Mission Armenia NGO³⁸**

In 1988 a group of volunteers united to help the victims/refugees of the disastrous earthquake and war. Within more than 20 years the spontaneous humanitarian activities have grown into a powerful non-governmental structure, which due to its experience and knowledge has gained a special place in the social support sphere of Armenia.

In the hardest times for Armenia, Mission Armenia created, implemented and developed a comprehensive system for providing community-based social-healthcare services, which up to now have no parallels in either state or public sectors. This system enabled the elderly, the disabled, refugees, temporary asylum holders and other vulnerable groups to access a variety of social and healthcare services in their homes and communities according to their personal needs and abilities. Mission Armenia has founded about 50 infrastructures that provide a comprehensive set of community-based services to over 8,000 beneficiaries in 22 cities/towns in 8 regions in the Republic of Armenia (RA).

³⁴ www.ffad.am

³⁵ Source: http://www.ffad.am/index.php?Page=Migrations_Ongoing_Project&Lang=1

³⁶ Source: http://www.ffad.am/index.php?Page=Migrations_Ongoing_Project&Lang=1

³⁷ Source: <http://www.facebook.com/SavetheChildrenArmenia>

³⁸ Source: <http://www.mission.am/en/index.php>

The services are provided through the community-based social-healthcare model developed by Mission Armenia, which has traditional social work at its base. From 2007 to 2010 the model was licensed by the international ISO 9001-2000 Quality and Administrative Management System, as well as in 2008 RA Ministry of Labor and Social Affairs granted license to Mission Armenia for social service provision.

Having adopted a systematized approach of assisting the vulnerable groups the organization not only provides services to beneficiaries but also strives to contribute to the overall improvement of social policies and the development of social partnership.

Ever since 1995 Mission Armenia in cooperation with UNHCR in the status of an implementing partner, has been realizing different projects for refugees / asylum seekers that are mainly ethnic Armenians.

Through the provision of community-based social, healthcare, training/educational and community development services contribute to the solution of vital problems of refugees/asylum seekers as well as promote their well-being and integration into the local society.

**A New Immigration Policy
in Azerbaijan**

SERGEY RUMYANSEV

Socio-Political Module

Abstract

Up to the late 1990s, discourse around mass emigration from Azerbaijan had to do, above all, with mass post-Soviet labour migration. During the last two decades (1990-2009) 266,000 arrived in the country as permanent migrants and 707,500 departed from Azerbaijan according to official statistics. According to official statistics the balance of migration was negative for Azerbaijan (though never massively negative) almost every year. But in the last two years more people arrived in the country than left it. On the grounds of these figures the authorities announced that Azerbaijan has become attractive for immigrants.

President Ilham Aliyev's stated: "The number of foreigners intending to visit the Republic of Azerbaijan will increase while Azerbaijan is developing. This can be considered a positive factor for our country. However, we must prefer the interests of our state, people, citizens and this must be the priority for our migration policy" on the home page of the Internet Site of the "State Migration Service of Azerbaijan Republic" in fact, there is the official declaration of changes in the migration process. These ideas have been set in state law in the "Decree by the president of the Azerbaijani Republic on the use of the 'single window' principle in the management of migration processes" (4th of March 2009).

New Immigration Policy in Azerbaijan

2011 was the fourth year in succession in which Azerbaijan was a migration-receiving post-soviet country rather than a migration-sending one. This is the official (public) assessment of the current state of affairs. 2009 marked the most important changes in the national migration policy in the entire post-Soviet history of the Republic of Azerbaijan (RA). To the outside world, these changes are an important demonstration of how the RA authorities pay close attention to improving control over increasing immigration to Azerbaijan. Simultaneously, the new immigration policy is designed to create an image of Azerbaijan as an economic success. The authorities believe that the increased attractiveness of the country to immigrants could be an important step in positive economic changes. The country's attractiveness for immigrants is, in fact, a key indicator, which is used by the country's regime to demonstrate the success of its policies.

The authorities believe that economic success has not been halted by the global financial crisis that erupted in 2009, and the country's President is using any opportunity to underline this, *inter alia*, while addressing the "Azerbaijani diaspora". Indeed, addressing his "fellow nationals" during the International Solidarity Day celebrations in 2009 (a national holiday, celebrated on 31 December), President Ilham Aliyev stated, that "despite all our challenges, Azerbaijan continued developing successfully in 2009. The country's economic growth in 2009 exceeded 9 per cent. It is a very high rate for a crisis year¹". However, during his address to his "fellow nationals" in the diaspora, Ilham Aliyev reported on economic and nation-building progress only and did not call for their return to the country. The new immigration policy is not providing a legal framework for the repatriation of emigrants, who left Azerbaijan in the Soviet and post-Soviet years. Diaspora policy, which is implemented simultaneously, is carried out on the basis that the immigrants stay in their host countries and that they contribute to diaspora formation and create political lobbies, promote Azerbaijani culture, and spread news of the success of their country of origin². Yet the new immigration policy is aimed at forming legal and institutional frameworks to control the quantity and the "quality" of foreigners entering the country (both in terms of permanent residence and in terms of employment); we refer here to foreigners who never had Azerbaijani citizenship, and who are not ethnic Azeris.

In the context of this new policy, the net migration indicator is heavily politicized emphasizing that Azerbaijan is no longer a developing country, but an economically successful state, appealing to immigrants. The official statistics say that over the past 20 years (1990-2009), 266,000 thousand people arrived in Azerbaijan for permanent residence, and that 707,000 left the country for similar reasons³. In general, even the official data reflects the negative migration balance in Azerbaijan. Moreover, the official statistics do not reflect the fact that a significant number of working age citizens permanently or temporarily reside abroad. However, official data from 2008 and 2009, i.e. immediately before the changes in the state migration policy were announced, demonstrate that the migration balance has shifted in favour of Azerbaijan. In 2008, 3,597 thousand people arrived in the country, and 2,530 left, and in 2009, 2,292 arrived and 1,373 left the country for permanent residence abroad. The vast majority of those who arrived and left the country were nationals of other CIS countries. Thus, 2,781 of those coming into the country in 2008 and 2,155 thousand in 2009 were CIS countries' citizens. Only 816 people in 2008 and 137 people in 2009 moved to Azerbaijan from other countries. There are practically no immigrants from the developed countries. For instance, only 10

¹ President Ilham Aliyev sent his greetings to the Azeri people on the occasion of the International Solidarity Day and the New Year, 1 January, 2010. Downloaded from <http://azeritoday.com/archives/11561>, on 30 September 2011.

² In detail: Rumyansev S. (2010), 'Post-Soviet Nation State as a Sponsor of Construction of the Ethno-National Diaspora: Azeri's Case', *Revue Européenne des Migrations Internationales (REMI)*, vol. 26, pp. 111-131.

³ International Migration, 2009. http://www.azstat.org/statinfo/demographic/en/1_24.shtml, on 30 September 2011.

US-nationals moved to Azerbaijan during these two years, and 9 from Germany⁴. The absolute majority of those relocating to the country for permanent residence are former citizens of Azerbaijan, who have, for whatever reasons, decided to repatriate to their country of origin. However, in the context of the new immigration policy, they are treated as foreigners who have decided to move to Azerbaijan. Upon arrival in Azerbaijan for permanent residence, immigrants must apply for a temporary residence permit to the State Migration Service and then they will apply for Azerbaijani citizenship, in compliance with legal provisions⁵.

These developments allowed for official statements that Azerbaijan has joined a privileged group of countries that are attractive to migrants. The Head of State comments on any and all the crucial changes in the socio-political and economic life of the country. In a condensed form the official position is reflected in the President's statement, found on the State Migration Service home page. There Ilham Aliyev said, "The number of foreigners intending to visit the Republic of Azerbaijan will increase while Azerbaijan is developing. This can be considered a positive factor for our country. However we must prefer the interests of our state, people, citizens and this must be the priority for our migration policy"⁶. Therefore, the new migration policy also regulates the stay of foreign nationals in the country, their employment, etc.

Prior to the changes in the immigration policy, gradual changes in the legislation and the governments' institutional structure were introduced in order to control migration. Yet in 2004, as a first step, the "State Programme for demography and population development in Azerbaijan" was adopted (11.11.2004). Based on this Programme, the "2006-2008 Azeri State Migration Programme" was developed (25.07.2006). Labor emigration from Azerbaijan is only mentioned in this document in passing. At the same time, the Programme already contained extensive indicators of the growing attractiveness of Azerbaijan to immigrants: "Expanding economic development increases the number of foreign nationals engaged in domestic labor market. The favorable geopolitical position of the Republic of Azerbaijan, economic reforms implemented in the country, signed contracts with the world's leading companies, the commissioning of the Heydar Aliyev Baku-Tbilisi-Ceyhan oil pipeline, the restoration of the historic "Silk Road", and the implementation of other infrastructural international projects – entail increased labour migration flows"⁷.

The most important institutional reform was the establishment of the State Migration Service (Presidential Decree of 19.3.2007). Major amendments to immigration legislation were made in March 2009: in particular, the "Presidential Decree on the introduction of the 'single window' principle in migration administration" (04.03.2009) was adopted. It is believed, that the 'single window' principle reduces procrastination and at the same time, facilitates control over migration. Before the State Migration Service of the Republic of Azerbaijan assumed its functions, all the paperwork concerning the "stay and residence in the country of foreign nationals and stateless persons, their employment, and registration of the place of residence" was carried out by a variety of public services⁸.

All in all, the new immigration policy implies a strengthening of control over foreign nationals arriving in Azerbaijan. There are no doubts about the desire of the authorities to exercise tight control over ongoing processes in the country, *inter alia*, in immigration. Moreover, the new migration policy

⁴ Breakdown of persons arriving and departing to Azerbaijan from foreign countries for permanent residency, 2009. <http://www.azstat.org/statinfo/demographic/en/051.shtml#s1>, accessed on 30 September 2011.

⁵ Law of the Azerbaijan Republic on citizenship of Azerbaijan Republic, 1998. <http://migration.gov.az/images/pdf/8d5ee4c04f47879665cded315b74ce96.pdf>, on 30 September 2011

⁶ Official website of the State Migration Service of the Azerbaijan Republic, accessed on 30 September 2011. <http://www.migration.gov.az/index.php?section=000&subsection=000&lang=en>

⁷ Decree of the President of Azerbaijan Republic "Approval of the 2006-2008 State Migration Programme of Azerbaijan Republic", 2006. <http://migration.gov.az/images/pdf/a3720661d571fe6381870b2a4eac5b23.pdf>, on 30 September 2011.

⁸ Decree of the President of Azerbaijan Republic "Introduction of a "single window" principle in migration management", 2009. <http://www.migration.gov.az/images/pdf/771e25268470385559d32db9ceae2d70.pdf>, on 30 September 2011.

is connected with the fulfillment of EU commitments. However, the main goal is to create a progressive image of the country, which is inseparable from the regime. All achievements are presented as due to the success of the regime, and yet another proof of its indispensability. That is the reason behind Azerbaijan's transformation from a migration donor into a migration-receiving, i.e. an attractive and successful country. Preservation of the Azerbaijani image as a country with mass labour emigration has become inconvenient for the regime. Therefore, the official statistics have been designed to confirm a transformation worked by the state.

We should acknowledge that economic growth is a reality. It should also be kept in mind that some part of Azeri immigrants decided to repatriate to their country of origin after facing difficulties with resettlement abroad. However, there are no credible statistics reflecting re-emigration to the country. We can only say that those who return to the country are largely immigrants occupying a niche of unskilled workers at construction sites, and the like. There is a renewed demand for them in the country of origin due to housing and roads construction. However one should not speak about the mass repatriation of emigrants. If that was the case, the current economic well-being and prosperity would quickly have given way to mass unemployment and crisis. However, in the context of the new immigration policy, these aspects do not play a noticeable role. The important point is the gradual implementation of the European integration requirements: Azerbaijan has long been a full member of the Parliamentary Assembly of the Council of Europe (PACE). Here the attractiveness of Azerbaijan to immigrants becomes part of the authorities' populist discourse, which the regime uses to support its legitimacy and demonstrate its efficiency.

**General Trends of Migration Processes and Policy
in Post-Soviet Azerbaijan
(Immigration and Emigration)**

SERGEY RUMYANSEV

Socio-Political Module

Two decades of observation of migration processes that occurred after the collapse of the Soviet Union allow identifying the general trends and direction thereof. Moreover, one gets a clear idea about the tasks and positions of various political actors who have an effect on migration dynamic. In this paper an attempt is made to identify the most important trends and place them in the context of key political actors' positions.

For Azerbaijan the process of the Soviet Union collapse coincided with the Karabakh conflict¹ that aggravated economic problems in the country. For the first time in at least one and a half centuries large stocks of population came (or were forced to come) into motion. Migration processes of the late 1980s – early 1990s lead to the drastic change in the ethnic composition of the Azerbaijani population.

Thus, Karabakh conflict became the reason for the emergence of numerous refugees and displaced persons, who were mainly ethnic Azerbaijanis. Taking into account that the conflict is still unresolved, the number of refugees and displaced persons remains a political issue, rather than simply a statistical one. That is why the data on the number of displaced persons often differ in the statements of public officials and representatives of various non-governmental organizations. According to different estimates, from more than a million² to 788,765 thousand people³ should be labeled as displaced persons.

On the other hand, hundreds of thousands of ethnic Armenians became refugees from Azerbaijan. According to the 1989 census, 390.5 thousand ethnic Armenians lived in Azerbaijan. Two subsequent censuses carried out in 1999 and 2009 recorded 120.7 and 120.3 thousand Armenians respectively. The data of these censuses mainly record the number of Armenians residing in the region of Nagorny Karabakh that Azerbaijani authorities have no control of. This figure is tentative and is based on the estimate of the number of ethnic Armenians who resided in Karabakh according to the census of 1989.

The number of ethnic Russians has also drastically changed. 392.3 thousand Russians lived in the republic in 1989, while according to the censuses of 1999 and 2009 there were 141.7 and 119.3 thousand Russians respectively. One should also mention ethnic Jews: there were 30.8 thousand of them in Azerbaijan according to the census of 1989, while according to the censuses of 1999 and 2009 – 8.9 and 9.1 thousand respectively⁴. Thus, in the post-Soviet period a rather quick homogenization of Azerbaijani population took place.

By late 1990s gradual political and economic stabilization started and at the same time state migration policy became more specific. Until the second half of 1990s Azerbaijani authorities were mainly concerned with the regime of labor migration from Azerbaijan, as far as mass emigration of employable population and hence emigrants' money coming to the country allowed stabilizing the economic situation in Azerbaijan.

Primary concern was constituted by relations with the Russian Federation where the main flow of labor emigrants was directed⁵. In December 1994 Russia closed the border with Azerbaijan and this became a serious obstacle for labor migrants. Flight communication between the two countries could

¹ Period from the start of conflict until its escalation to war is usually indicated as 1988 – 1994. In May 1994 temporary cease-fire was concluded and the conflict remains unresolved.

² State Committee of the Republic of Azerbaijan on Deals of Refugees and Internally Displaced Persons. History. Downloaded from <http://www.refugees-idps-committee.gov.az/en/pages/2.html>, on February 29.

³ Huseinova I. (2001). Refugees, their position and role in contemporary Azerbaijani society, *Azerbaijan and Russia: Societies and States*, p. 323 – 336. Downloaded from http://www.sakharov-center.ru/publications/azrus/az_011.htm, on February 29.

⁴ For details see: 2008. Statistical Yearbook of Azerbaijan. Baku, p. 77; Yunusov A. Ethnic composition of the population of Azerbaijan according to the census of 1999. Downloaded from http://www.iea.ras.ru/topic/census/mon/yunus_mon2001.htm, on February 29.

⁵ Migration in the Republic of Azerbaijan: A Country Profile 2008, International Organization for Migration (IOM), p. 17.

not satisfy the transportation need of labor migrants. As a result of serious efforts undertaken by the previous president of Azerbaijan Heydar Aliyev a renewed treaty “On friendship, cooperation and mutual security” was signed in July 1997 in Moscow between Russia and Azerbaijan. The border was reopened and visa-free regime was established between Russia and Azerbaijan. In subsequent years Russian authorities occasionally tried to use labor migrants to put pressure on Azerbaijani political regime, but these attempts were short-term and did not represent a major threat for the migrants’ life and employment in Russia.

Activities of security and law enforcement agencies in Azerbaijan became the biggest obstacle for movement of labor migrants. We are primarily talking about the Ministry of Defense that until mid-2000s, though with a varying degree of harshness, exercised control over departure of men of conscription (and hence employable) age. However, this control did not become a real obstacle for mass flow of labor migrants and instead contributed to the flourishing corruption in this field.

Permanent membership of Azerbaijan in the CIS (starting from September 1993), in its turn, contributes to the preservation of visa-free regime with most other (in addition to Russia) member states of the Commonwealth and becomes a crucial condition for unimpeded movement of migrants. One should emphasize that though Russia is the main recipient country for labor migrants from Azerbaijan, large groups of migrants also travel to Ukraine, Kazakhstan and other CIS countries.

Close partnership relations with Turkey support the regime of free movement of migrants to some extent. Simplified visa regime in Turkey was completely abolished for Azerbaijan in 2010. However, Azerbaijan so far has failed to establish such a favorable visa regime with EU countries and the USA. As a result emigrants from Azerbaijan move to these countries by marrying⁶, using illegal channels or going to study.

Opportunity of staying in a country of education is associated with various scholarships and grants from international funds for education in the EU member states, USA etc. At the same time starting from 2000s active state policy is pursued to send students abroad. For instance, around 5 thousand students will go to the USA, Japan and the European Union within the program “State program for education of Azerbaijani young people in foreign countries in 2007-2015”⁷. Mandatory return to Azerbaijan is one of conditions for participation in this program.

There is no trustworthy statistics of the number of emigrants (both labor and those leaving for permanent residence). However, according to approximate estimates, we are talking about millions of emigrants. From one to one and a half million citizens of the country permanently or temporarily reside overseas⁸.

In general, during the post-Soviet period Azerbaijani authorities strived to pursue policy aimed at maintaining mass labor and permanent emigration from Azerbaijan. By early 2000s this policy became clearly outlined with adoption of a law “On state policy with regards to Azerbaijanis residing abroad” in December 2002, holding of the First Congress of Azerbaijanis of the World (Baku, November 2001) and establishment of the Committee on Affairs with Azerbaijanis Living Abroad (decree of 05.07.2002). Thus, Azerbaijani political regime demonstrated that it aims at formation of a diaspora, rather than mass return of emigrants to the republic.

At the same time Azerbaijan is also a recipient country for labor migrants. This is due to the overall revival of economy and primarily development of oil and gas industry. Moreover, one should also mention that during the Soviet period Baku, the capital of Azerbaijan, became a large educational

⁶ Marriages to citizens of EU, USA etc., as well as marriages to ethnic Jews constitute a resource for migration.

⁷ Downloaded from <http://edu.gov.az/view.php?lang=ru&menu=256>, on February 29.

⁸ Let me emphasize that this estimate is given without taking into account migrants from the ethnic groups mentioned above (Armenians, Russians and Jews). At the same time, evaluating the total number of Azerbaijani migrants, one often forgets to mention that Lezgins, Talyshs, Kurds and other citizens of the country are calculated as part of this category.

center. No doubt, the quality of education reduced drastically during the post-Soviet period. However, universities of Azerbaijan still attract students from many countries, for instance, from Turkey, China etc. According to official data, 7,150 foreign students studied in Azerbaijan in 2008-2009⁹. Many students (primarily from Turkey) stay to work in Azerbaijan after they complete their studies.

By late 1990s authorities started paying close attention to immigration policy, which was reflected in adoption of the corresponding legislation. One of the first important laws was the “Law of Azerbaijan Republic on immigration” (of 22.12.1998)¹⁰. Under this law everyone gained the right to submit petition for immigration to the Republic of Azerbaijan and this petition is to be approved, if certain requirements are satisfied. In October 1999 the law “On labor migration” was adopted to regulate the rules of employment of foreigners in Azerbaijan¹¹. In 2002 the law on immigrant ID was signed¹².

In 2001 the Ministry of Labor and Social Protection started issuing individual permits for work in Azerbaijan. By 2006 such permits were obtained by 8,485 immigrants. In the meantime, until the State Migration Service was established, control over immigrants was exercised mainly by the Ministry of Interior. For instance, according to official data, 20,986 foreigners obtained temporary registration in police precincts at their places of residence in 2005¹³. According to the latest official information, 4,360 people contacted the State Migration Service of Azerbaijan regarding various matters in January 2012 (requests for temporary stay permits, prolongation of visas etc.). 1,122 foreigners violated administrative legislation of Azerbaijan. As a result 261 paid fines, 696 were instructed to leave the country, and 165 were expelled following an administrative procedure¹⁴.

The donors of labor migrants to Azerbaijan are Turkey, United Kingdom, Iran, Georgia, Pakistan, Philippines and a number of other countries¹⁵. One should emphasize that ethnic Azerbaijanis mainly come to Azerbaijan to work from Iran and Georgia. Some experts also point out that tens of thousands of immigrants might be in the territory without being recorded by official statistics¹⁶. However, it is impossible to verify this information and present any reliable figures. One can only state that in the context of high level of corruption of the state institutions considerable share of immigrants must indeed be unrecorded by official statistics.

In conclusion one should emphasize that despite large-scale migration official statistics records practically constant population growth in Azerbaijan. Thus, total population, according to the 1999 census, was 7,953.4 mln. people, and as of 2009 it was 8,896.9 mln. It is obvious that statistics did not take migration flows into account.

⁹ Downloaded from <http://edu.gov.az/view.php?lang=ru&menu=134>, on February 29.

¹⁰ Downloaded from <http://migration.gov.az/images/pdf/e4648c2607c8e316316a1388f6d09a16.pdf>, on February 29.

¹¹ Downloaded from <http://migration.gov.az/images/pdf/b4a7bbc25c4e936cedaa5ee6d958a75e.pdf>, on February 29.

¹² Downloaded from <http://migration.gov.az/images/pdf/0b3c44b1b3e9dafd811c99fb6892399d.pdf>, on February 29.

¹³ Migration in the Republic of Azerbaijan, Ibid., p. 14

¹⁴ Official statistical information of the State Migration Service of Azerbaijan, as of January 2012. Downloaded from <http://migration.gov.az/index.php?section=009&subsection=041&lang=ru&pageid=3036>, on February 29.

¹⁵ Azerbaijan Labor Migrant Survey Report (International Organization for Migration, IOM), 2008, Baku, pp. 16-21.

¹⁶ Migration in the Republic of Azerbaijan, Ibid., p. 14; Yunusov A. (2009). *Migration Processes in Azerbaijan*. Baku, pp. 210-235.

**State of Return Migration Policy and Research:
Case of Georgia**

TAMAR ZURABISHVILI

Socio-Political Module

Abstract

Being a relatively newly migrant sending country, Georgia does not have an elaborated migration policy. Following its liberal politics, until recently, migration regulations were either extremely open, or non-existent. The same is true for the return migration policy – there is no state operated program or strategy aimed at reintegration of returnees. Only recently with the signature of readmission and visa facilitation agreements with the EU, Georgia started working in this direction, but so far no visible results are observed.

State of return migration policy and research: case of Georgia

Policy:

In 2007 IOM Georgia conducted the first assessment of the migration management in Georgia based on the request by the Georgian Government. The report argued that Georgia's migration management policy needed to be strengthened – the immigration policy into Georgia was so liberal, the report stated, that 'illegal migration becomes almost a "non-issue" (IOM, 2007, p. 4). Importantly, by the time the report was commissioned and produced, as its authors stressed, Georgia did not have 'a written migration policy document' (IOM, 2007, p.12). The report highlighted several issues that had to be paid close attention to, as presented below:

- Georgia's extremely liberal and open policy on migration following its free market policies;
- A very liberal visa regime both in terms of visa categories as well as in relation to visa issuance at the borders – available for practically every nationality;
- No proper inter-agency administrative structure nor a clear-cut inter-agency cooperation in place between the various ministries and agencies, allocated with competences in different areas of migration management. Ultimately this undermines the objective of dealing with the different immigration issues in a coherent manner;
- The lack of systematic requirements for the issue of residence permits and their categories as well as length of validity – particularly crucial for the residence permits issued on the basis of employment, in relation also to Georgia's own un-employed population;
- There is no specific work permit system for foreigners in place, meaning that there are no limits to the employment of aliens who obtain residence permits simply on presentation of employment contracts, neither are any particular obligations imposed on employers as regards the employment of foreigners;
- Except for entry and exit no further tracking mechanism for foreigners is in place inside the country to verify "change in status";
- There is no system in place that would alert Georgian migration authorities of "over-stayers" (both on visa and residence permit expiration);
- There is a lack of detention facilities for irregular migrants;
- There is a lack of funds to enforce deportations, though the caseload is still relatively small;
- The assessment team has noted an excessive divergence in the definition of what is an "irregular/illegal migrant" with disproportionately high (criminal) penalties for illegal border crossing, as opposed to limited and lax (administrative) penalties for other immigration offences, such as over-stay (IOM, 2007, p. 4).

This list above creates a clear understanding of the situation in the migration management sphere in Georgia by 2007 – i.e., there was no administrative structure to manage migration, and there was a relaxed registration requirement for work or residence permits. Hence, in a situation with a non-existent overall migration policy in the country, no discussions related to the migration policy related to the return migration were part of the policymaking, until the start of the negotiations with the EU regarding the visa facilitation regime and readmission agreements. The EU is thus plays as a major driving force in shaping Georgia's migration policy-making.

Today, in respect to the citizens of the Western European and North American countries, as well as citizens of most CIS countries, entry to Georgia does not require obtaining visa. Georgia has signed the readmission¹ and visa facilitation agreements with the EU. These agreements entered into the force in March, 2011. The readmission agreement sets clear responsibilities on both Georgia and EU countries in regard to irregular migration and readmission procedures. Visa facilitation agreement simplifies issue of EU visas to those Georgian citizens, who travel more often, are members of families of Georgian citizens residing in the EU countries. Visa facilitation also reduces visa costs.

In 2009 IOM started implementation of the 'Capacity Building in Migration Management Programme (CBMMP)'²-- a two-year program aimed at strengthening the Georgian Civil Registry in migration management, including, but not limited to trainings, assistance in creating a methodology of database collection and analysis and development of a software for that purposes. In 2010 the EU funded a project that is being implemented by the Danish Refugee Council and the International Center for Migration Policy Development (ICMPD) in partnership with the Georgian Civil Registry Agency (CRA) and the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia. The two-year project "Consolidation of the Integration Activities in Georgia" will be established to facilitate economic and social reintegration of returnees. The project will also have various activities, such as labor market studies, establishment of an internet platform and practical mechanisms to facilitate consolidated activities that aim at establishing special "Mobility centers".

Georgian Civil Registry Agency, which among its functions has "[m]aintenance of citizenship registration, acts of civil status, establishment of informational-migration bank"³, will be mainly in charge to manage readmission related issues in the country, including, but not limited to citizenship identification/verification.

As of today, no state program/training courses exist for returnees that would create an environment in which returnees would be able to apply in Georgia the skills they have learned abroad, or to encourage the returnees to start their own businesses, to facilitate their integration in the society.

Research:

Existing statistical data of returned migration (not only of migrants, that have returned to Georgia under the readmission criteria, but migrants, who voluntarily returned as well) are scarce and hard to obtain. Present studies of migration from Georgia⁴, as a rule, provide only various kinds of estimations

¹ Readmission and visa facilitation agreements can be found here: 'Conclusion of two EU agreements with Georgia on visa facilitation and readmission', January, 2011, http://consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/118885.pdf, accessed on September, 29, 2011.

'Agreement between the European Union and Georgia on the readmission of persons residing without authorisation', February, 2011. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:052:0047:0065:EN:PDF>, accessed on September, 29, 2011.

² More info regarding the project is provided here: http://iom.ge/index.php?activities&cbmmp&activities_start&photo

³ http://www.cra.gov.ge/index.php?sec_id=17&lang_id=ENG

⁴ See, for example: Natia Chelidze, *Labor Migration from Post-Soviet Georgia* (Tbilisi: Lega, 2006); Revaz Gachechiladze, *Migration of Population in Georgia and it's Socio-Economic Consequences* (Tbilisi: UN, 1997); Tomas Gugushvili, *Problems of International Migration and Demography in Georgia (1990-1998)* (Tbilisi: Office-Press, 1998); George

on the character, scale, composition and direction of international migration flows from Georgia. However, these studies in most cases have a rather fragmentary character and often provide contradicting findings. Studies of return emigration⁵ are much harder to find. There are several studies that examine the returnees to Georgia, and only few of them focus on the experiences and problems the returnees they face during the reintegration in Georgia. Below is briefly discussed the state of research of return migration in Georgia with the focus on their methodological relevance.

IOM Georgia was one of the first organizations to focus on return migration when it produced a study in 2002 'The Return and Reintegration in the South Caucasus'. The research was conducted in all three countries of the South Caucasus with the aim to study reintegration patterns of returnees who came back to their home countries with the assistance of specific programs established in the receiving countries to facilitate voluntary return migration. The study also covered deported returnees. In the case of Georgia, only 27 returned migrants were interviewed on the first stage of the study and 12 returnees in the follow-up second stage of the research. The study, despite the small sample size, argued that there were limited employment opportunities for the returnees in the country, limited opportunities to use new skills they acquired abroad and thus, returnees hold pessimistic perspectives of the future and considered leaving country again (IOM, 2002).

More wide scale study was conducted by Irina Badurashvili – she interviewed 960 returned migrants using a combination of a representative nationwide sample and snow-ball sampling. Rather than concentrating on reintegration patterns of returnees, the study is focused on collecting data on socio-demographic characteristics of returnees, their migration experiences and remittance behavior. The study nevertheless suggested that quite a significant number of returnees still planned to emigrate in the nearest future due to difficulties in reintegration: “a fifth of former migrants plan to go abroad again in the nearest 6 months; 10% more mentioned during the interview that other family members plan to go abroad and around 3 % - that whole family is leaving Georgia in the nearest six months” (Badurashvili, p. 28). Badurashvili’s results were consistent with the findings of the study, conducted by Mariam Saguevarishvili. The report is based on the results of 50 in-depth interviews with returned migrants. Like previous studies that mainly focused on migration experience of returnees, with no particular emphasis on their lives upon return. This study also questioned the idea of sustainable return since many returnees expressed desire to re-emigrate again (Saguevarishvili, 2005).

Perhaps, the only study so far conducted in Georgia that focused primarily on reintegration of returnees and on the impact of voluntary assisted return programs, is the study conducted by Danish Refugee Council “Migration and Return in Georgia: Trends, Assessments, and Potential”: DRC, 2007 (Unpublished). Five focus groups with returnees from various countries were conducted in 2007 in the capital of Georgia --Tbilisi, and in three big cities--Kutaisi, Batumi and Akhalkalaki. Based on the results, the study confirmed findings of previous studies, that there were limited employment opportunities for the returnees, especially, well-paid opportunities; knowledge about the voluntary assisted return programs was rather limited among migrants; besides, economic, returnees had emotional and cultural problems in reintegrating in the Georgian society.

Brief analysis of the available research data demonstrate both the lack of studies on return migration to Georgia in general, and lack of studies that focus on the issues of social and cultural

(Contd.)

Tsuladze, *Emigration from Georgia according to the 2002 Census data* (Tbilisi: CRRC, 2005); Alexandre Vadachkoria, *International Migratory Processes in Georgia (1989-2002)*. (PhD Thesis, Institute of Demography and Sociology, 2004); Irina Badurashvili, “Illegal Migrants from Georgia: Labor Market Experiences and Remittance Behavior”. December, 12, 2006. <http://iussp2005.princeton.edu/download.aspx?submissionId=51259>. Irina Badurashvili, “Determinants and Consequences of Irregular Migration in a Society under Transition. The Case of Georgia, Caucasus”. May, 20, 2004. <http://paa2004.princeton.edu/default.asp>. Larry Dershem and Tea Khoperia, *The Status of Households in Georgia*. Final Report. (Tbilisi: USAID, Save the Children, IPM, 2004); International Organization for Migration (IOM), *Hardship Abroad or Hunger at Home*. (Tbilisi: International Organization for Migration, 2001); International Organization for Migration (IOM), *Labor Migration from Georgia*. (Tbilisi: International Organization for Migration, 2003).

⁵ ‘Return migration’ in this context refers both to voluntary and involuntary returnees.

integration of the returned emigrants in the home society. Regarding the return and, specifically, reintegration policy, we should expect more developments in the nearest future, since the readmission and visa facilitation agreements require Georgian Government to create policy mechanisms to ensure the implementation of the agreement's requirements.

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CHAPTER 4

Circular Migration

**The Demographic and Economic Framework
of Circular Migration in Armenia**

RUBEN YEGANYAN

Demographic and Economic Module

1. Introduction and definitions

Contemporary interpretations of the term “circular migration” emphasize return, in other words the re-emigration of the former migrant. Of course, all migration trips, regardless of whether they are initially aimed at permanent or temporary residence, are potentially circular. After all, the probability of return (especially temporary return) may be high or low, but it will never be zero (even for refugees and displaced persons.)¹

Then too the classification of migrants as circular (those who carried out “departure-arrival” in the course of the period) and non-circular (those who only performed an act of “arrival” or “departure”) will in any case be arbitrary. Certainly, it is impossible to exclude that some of the latter are also circular migrants, whose temporary or permanent return will eventually occur.

However, even this arbitrary procedure is not a simple task, because of data collecting difficulties. In order to classify migration as circular and in order to identify circular migrants among the total stock of migrants, one needs a good deal of information: the relevant data (dates, nature, etc.) on all individual international migration movements of a given population over a certain time-period. Of course, migration accounting and census data are not sufficient here. The only sources of such comprehensive and profound information are sample surveys of migration performed through specific methods.

More or less authentic data on the circular migration movements of population of the post-Soviet Armenia are only provided by sample surveys. These allows us to obtain more realistic estimates of volume, structure, as well as a number of other characteristics of emigrant and immigrant stocks: they reconstruct all migration movements of all members of households that got into the sample during the retrospective observation period (Yeganyan, 2002, p. 207-213.) Over the past years several surveys were carried out using this methodology. This paper relies on data of one such survey covering the whole spectrum of migration-related issues performed in 2007 for 2002-2007.² In addition to that, the author uses data of the special survey of labor migration of Armenian population carried out in 2009 based on practically the same methodology.³ Unfortunately, these surveys were designed to obtain detailed information only with regards to the latest migration (three months or longer) trip of a respondent. For all other trips only the dates of departure and arrival were obtained. This information is sufficient in identifying the total number of circular migration trips during the retrospective period. It is also good for picking out the persons who carried out these trips. But it does not allow us to correctly structure these data in terms of movement type.

Nevertheless, the data of the first of these surveys demonstrate that all forms of circular migration as identified by Agunis and Newland (2007) are present in the Armenian case. These include permanent migration and permanent return, (I); permanent migration and temporary return, (II); temporary migration and temporary return, (III); and temporary migration and permanent return, (IV). At the same time these phenomena are far from being equivalent in terms of quantitative parameters, mass scale and significance.

No doubt, there are instances of the permanent return of those who left Armenia for permanent residence and of their descendants too. However, their number is likely to be small. Thus, the survey of 2007 included only 17 households (out of 2,500 in the sample) that in 2002-2007 came back from

¹ Examples of refugees from post-revolutionary Russia are illustrative in this regard. A real opportunity for them to return came only after seventy years of banishment, and some of them / their descendants used this opportunity, thus becoming, at least *pro forma*, circular migrants.

² The 2007 “Sample Survey on External and Internal Migration in the Republic of Armenia (RA)” was conducted by the National Statistical Service of RA and the RA Ministry of Labor and Social Issues June-November 2007. The United Nations Population Fund (UNFPA) has provided funding and technical assistance (UNFPA, 2008).

³ The survey on “Exit labor migration from Armenia in 2008-2009” was financed by the International Labour Organization (ILO).

emigration: this indicates, incidentally, that migration processes in Armenia are mostly individual, rather than family-based. From those 17 households only 5 came back from a migration trip with the hope of permanent residence (UNFPA, 2008, p. 24-25).

Unfortunately, these surveys do not allow us to reliably identify the number and share of permanent migrants who are temporarily returned. However, this is likely a much more widespread phenomenon. At present, for instance, family emigrants from Armenia (both permanent and long-term) often take/send their children to the home country during summer vacations: the maximum or arriving and departing passengers comes at the beginning and at the end of the summer. These *touristic* visits help to maintain and develop ties between the diaspora and their home country and contribute to the preservation and the increase of the potential re-emigration (both permanent and temporary) of emigrants from Armenia and their descendants. The Armenian government and particularly the recently established Ministry of Diaspora make certain efforts in this field. Every year several hundred children from Armenian communities in different countries come to their home country within the program: “come home”. Some permanent emigrants also visit their home country to satisfy various needs often staying for a rather long time (not least for access to cheaper healthcare). Finally, there are frequent cases of temporary returns of permanent emigrants and their children to receive specialized education in their home country. At the same time one should mention that at present the labor migration component is almost completely absent from the “permanent migration and temporary return” phenomenon. The cases when the temporary return of a permanent migrant from Armenia is associated with work are rare, something hardly surprising given the state of the Armenian labor market.

Most contemporary Armenian circular migration movements can be classified as “temporary migration and temporary return”, the category that probably best identifies circular migrants by including the characteristic of repetitiveness. Most people involved in this process are, no doubt, labor migrants. These are primarily those who undertake seasonal labor trips. Representatives of this subgroup leave with varying frequency (often every year) in spring-autumn to earn money and then to return, essentially temporarily, to reside in Armenia (until the next trip, often for 2-4 months). The next subgroup is comprised of the so-called “short-term, non-seasonal labor migrants”. These are those who depart for a period of less than twelve months, but whose occupation is not associated with clear seasonality. However, the main difference that makes it necessary to identify these migrants as a separate subgroup is the fact that uncertainty factor is less significant compared to seasonal labor migration: for these jobs people mainly depart based on a special request or preliminary agreement for a certain type/volume of work. Finally, the last subgroup of temporary labor migrants in Armenia is made up of “long-term labor migrants”, whose absence period exceeds a year. This form of circular labor activity is also less spontaneous. This classification is to a large extent arbitrary. After all, in practice there are frequent cases of the transformation of initial labor trips. In particular, one can observe clearly defined trends of transformation of short-term labor trips into long-term ones and long-term trips into permanent emigration. As a result of this and due to the complexity of data collection, the correct application of this classification is problematic.

The dissemination of the fourth type of circular migration “temporary migration and permanent return” was predefined by widespread temporary labour trips on the part of Armenians. During each specific time period there is both an increase in the ranks of temporary labor migrants and the final settlement of some of them after their return.

2. Size and characteristics of circular migration

According to the 2007 Survey, over 300,000 or over 9% of the Armenian population were involved in international migration movements in the period 2002-2007.

Table 1. Household members in Armenia who had been involved in international migration movements in the period 2002-2007 by type of migration, 2007 (*)

	Number	%
Re-emigrants (**) (category A)	86,397	28.7
Emigrants (***) (category B)	205,620	68.4
Immigrants (****) (category C)	8,782	2.9
Total	300,799	100.0

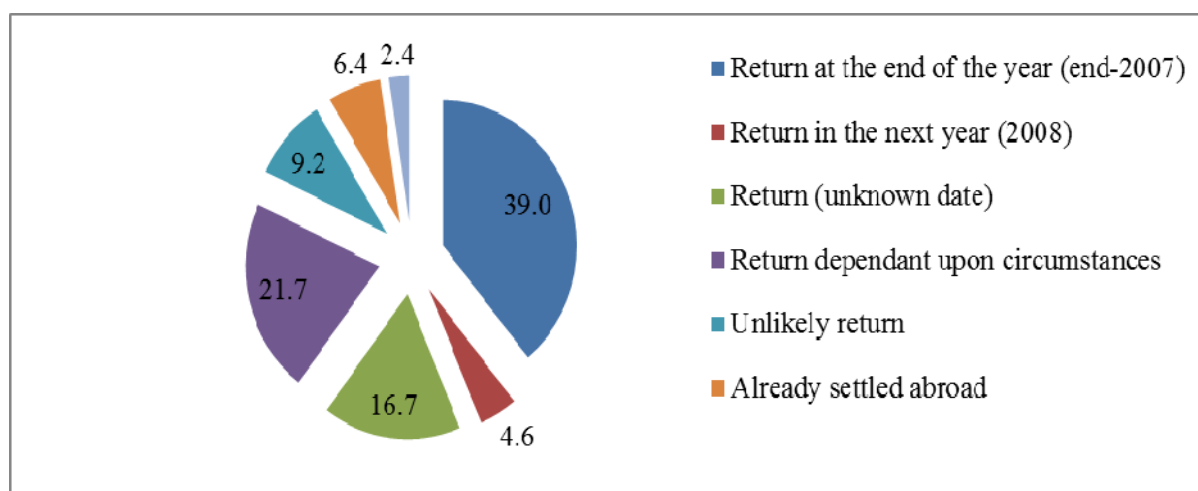
Notes: (*) A “migrant” is a person partaking in migration who has changed his/her place of permanent (usual) residence; (**) A *re-emigrant* is a person who was in a foreign country as an international migrant for more than three consecutive months (long-term or short-term) at the time of the survey and who returned to Armenia; (***) an *emigrant* is a person who was residing in a foreign country at the time of the survey for three or more months; (****) an *immigrant* is a person who arrived in a given settlement area for the first time at the time of the survey from a foreign country, for the purpose of settling.

Source: “Sample Survey on External and Internal Migration in RA” (in UNPF, 2008)

Among them, only about 9,000, or 3%, are immigrants as such, i.e. migrants who have moved to Armenia from foreign countries (see category C in table 1): in other words, they cannot be unequivocally classified as circular migrants.

In turn, of the remaining 291,000, about 29%, or 86,397 were clearly circular migrants, 2.6% of the total population of Armenia. These are re-emigrants (see category A in table 1), i.e. people who have lived for more than three consecutive months abroad during the survey period and who have returned to Armenia. The stock includes both those who permanently or temporarily returned from the permanent emigration and those who permanently or temporarily returned from temporary emigration. This is supported by the fact that about 84% of this stock came back from the first emigration, 11% from the second emigration and just fewer than 5% from the third emigration or further emigrations. The average number of returns was 1.5 (or 2.1 for those who returned in 2007).

As regards the people identified as being abroad at the moment of the survey (205,620 people – see category B in table 1), data do not allow us to assess how many trips abroad they made. We know, however, that around 60% (c 120,000) of them were planning to return at the time of the survey (figure 1). Here, we count them as being circular migrants who were living abroad.

Figure 1. Future migration plans of Armenian emigrants (category B – table 1), values in %, 2007

Source: “Sample Survey on External and Internal Migration in RA” (in UNPF, 2008)

Thus, if we add this total (c 120,000) to the number of circular migrants who were in Armenia at the time of the survey (c 86,000), we obtain a total of more than 200,000 circular migrants from Armenia in the period 2002-2007.⁴

In what follows, we will present the main characteristics of Armenian circular migrants according to the two above-mentioned categories. However, it should be noted that since the characteristics of emigrants who were abroad at the time of the survey are not available specifically for the category of migrants who were planning to return (i.e. circular migrants), we assume that structural characteristics are the same for those who were wishing to return and those who were not wishing to return.

Those who went to earn money, or labor migrants, constituted the main part of all circular migrants. Over 60% of circular migrants who were in Armenia at the time of the survey worked during their latest emigration: 54.5% of them for less than one year; around 18% for 1-2 years; around 12% for 2-3 years; over 15% for 3 or more years (UNFPA, 2008, p. 45). Almost 7% wanted to work, but failed to find a job. The number of employed circular migrants among those who were abroad at the time of the survey was even more significant: almost 79% worked at the time of survey and only 2.4% wanted to work, but failed to find a job (Ibid., p. 58).

12-13% of all circular migrants represent the 20-24 age group, and 14-15%, the 24-29 years (Ibid., p. 41, p. 54). Hence one can suggest that it is during this crucial period that the first circular migration trips occur. As a whole, three quarters of all circular migrants were in the most active labor and reproductive ages (20-49 years). It is noteworthy that the 20-24 age group practically did not take part in circular seasonal labor trips in the 1970-1980s, while participation of 25-29-year-olds was less prominent (State Committee for Labor and Employment of Armenian SSR et al., 1985). 20-23% of these populations were 30-39-year-olds, and a little more than that, approximately 25% of 40-49-year-olds.

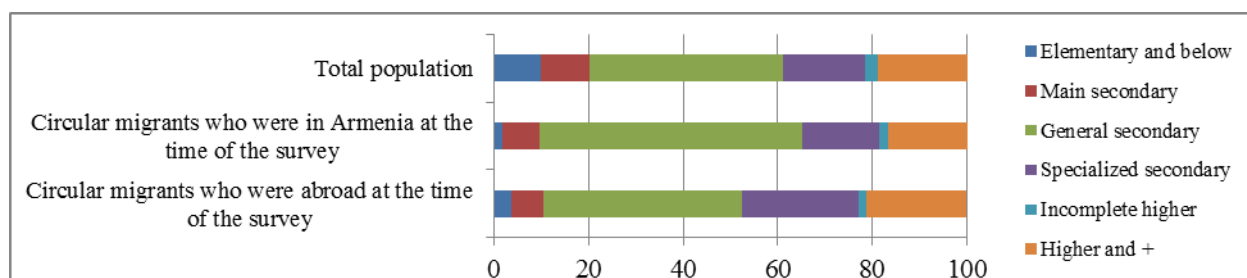
Most circular migrants were men: two out of three circular migrants who were in Armenia at the time of the survey and three out of four circular migrants who were instead abroad. In both populations two thirds were married, only 25-28% have never been married (UNPFA, 2008, p. 41, p. 54).

Commenting on the data in figure 2, one should say that the most notable thing is not that in both populations of circular migrants the share of less educated persons is visibly low: this is explained by specific character of circular migrants age structure and by the fact that compared to population at large persons below and above employable ages are less represented. Rather what is striking is the dominance of highly-educated persons among circular migrants who were in Armenia at the time of the survey. Matching this phenomenon with the fact of presence in the home country at the time of survey – which took place in the month of October, before the full completion of labor migration season – one can conclude that the share of seasonal labor migrants is lower among circular migrants who were in Armenia at the time of the survey compared to circular migrants who were instead abroad. On the other hand, the share of those who perform work requiring relatively high qualifications, as well as short-term and long-term non-seasonal labor migrants are higher.⁵

⁴ The former group was part of a so-called *passive* migration cycle (mostly temporarily returned temporary migrants or permanently returned temporary migrants), while others were involved in the *active* migration cycle, i.e. temporary emigration.

⁵ Unfortunately, the survey program did not include questions about respondents' occupation. So that it is not possible to detect whether they tend to experience job-education match or mismatch.

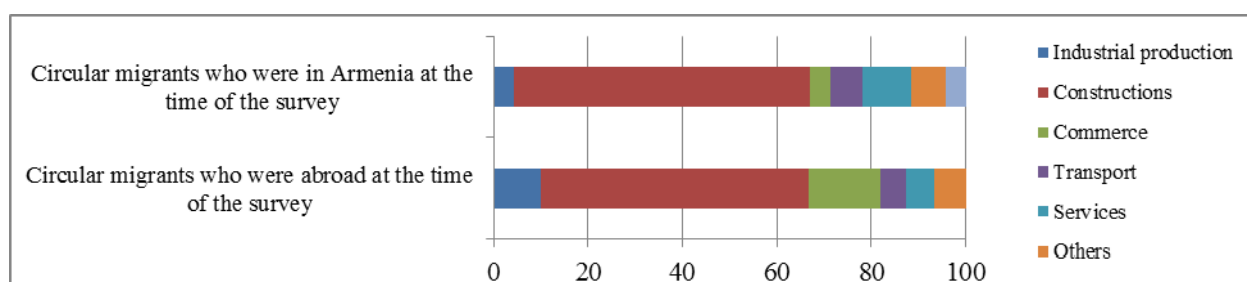
Figure 2. Circular migrants and total population living in Armenia (aged 10+) by level of education, values in %, 2007



Source: "Sample Survey on External and Internal Migration in RA" (in UNPF, 2008)

Figure 3 confirms that the main employment sector for both circular migrant populations is construction and demonstrates certain structural differences. The shares of persons employed in industrial production and commerce among circular migrants who were in Armenia at the time of the survey are higher (more than twice and almost fourfold respectively) than among circular migrants who were instead abroad. In all likelihood, this is at the same time a consequence and manifestation of the fact that non-seasonal labor migrants are better represented in this population.

Figure 3. Employed circular migrants during the latest emigration by job sector, values in %, 2007

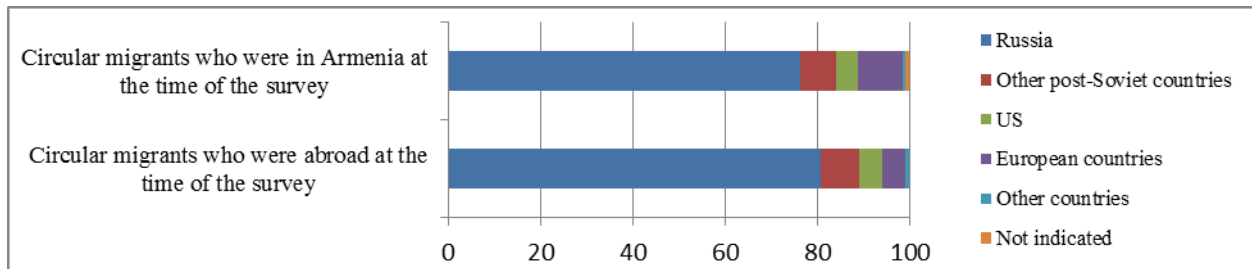


Source: "Sample Survey on External and Internal Migration in RA" (in UNPF, 2008)

The geographic distribution of trips of both Armenian circular migrant populations is practically identical (see figure 4). The only difference is a somewhat higher share of European countries as a destination for circular migrants who were abroad at the time of the survey: almost 10%, versus 5.2% in the case of circular migrants who were instead in Armenia. It appears that this can be partially, if not completely, explained by the fact that circular migrants who got to Europe fear they may not be able to obtain another entry permit and will try to stay there longer if possible. As for the relative distribution of circular migrants by country, some surveys (see e.g. the "Migration needs assessment" Survey)⁶ demonstrate that the majority of migrants would prefer Western Europe to Russia, were they free to choose. Hence there is a hypothetical possibility that if emigration barriers were to be lifted in these countries, the European share of Armenian circular migrants might significantly increase.

⁶ The "Migration needs assessment" Survey was conducted in 2007 by the Caucasus Research Resource Centre.

Figure 4. Circular migrants by country of stay during the latest emigration, values in %, 2007



Source: "Sample Survey on External and Internal Migration in RA" (in UNPF, 2008)

No doubt, circular migrants from Armenia feel differently in different destination countries and even in different regions of specific countries, particularly in such a large and diverse country as Russia. They acquire different experiences and have unequal financial and non-financial resources. However, this aspect has not been specifically studied.

3.The impact of circular migration in Armenia

Circular migration contributes to the reduction of unemployment level in Armenia. If in 2009 the labor part of circular migration had not been present (120,000), then the unemployment level would have equaled not 24.2%, as it was according to the data of labor migration study of 2009 (ILO, 2010, p. 30). Rather the unemployed would have risen to approximately 33%. It should be noted that according to the official estimates of the Armenian State Employment Service, unemployment level of that year was only 6.3%. On the other hand, until recently (in any case before the construction boom), there was a point of view in Armenia that the deficit of qualified workers emerged (mainly in construction) as a result of labor migration. Without going into detail, let us only note that if there is such a phenomenon, then it was motivated not by the high expectations of Armenian labor migrants, but by the uncompetitive labor conditions offered on the Armenian market, both in terms of wages and stable employment guarantees. In essence, the "Armenian" supply of jobs loses out to "foreign" supply in a competitive struggle. It is not a coincidence that for both circular migrant populations the "no jobs" factor was number one in decision-making for the emigration trip, followed by the "impossibility of earning enough to ensure satisfactory level of life." They were indicated respectively by 38.3% and 23.2% of circular migrants in Armenia and 4 out of 10 or every third circular migrants abroad at the time of the survey (UNFPA, 2008, p. 43, p. 56).

The educational background of circular migrants is approximately the same as the general population. The most relevant loss in terms of human capital is the fact that labour migrants do not use to work in the field in which they were trained. In fact, they are often involved in work that does not require much knowledge. However, this is to a certain extent compensated for by two associated phenomena. First, a certain share (almost 50%) of circular migrants wages is spent on education and the resolution of medical problems among family members, i.e on the development of human capital (ILO, 2010, p. 52-53). Second, migrants acquire new experience and professional skills, learn about new technology etc., hence circular migration also contributes to the enhancement of human capital. Let us note that at present this phenomenon is manifested in such areas of Armenian economy, as the construction, trade and service sector.

However, by and large, the potential of circular migration as a crucial impetus for economy, development and expansion of domestic production is not fulfilled. Only 1-3% of circular migrants have sent some part of their wages in emigration for investment in Armenia (UNFPA, 2008, p. 61-62). There are three main factors for this. First, insufficiently high incomes of circular migrants abroad at the time of the survey only 42-48% of circular migrants managed to save part of what they earned

(Ibid. p. 48, p. 61). Second, inflation and currency exchange fluctuations “consume” significant part of nominal increase in currency resources transferred by migrants (see table 2). Third, investment risks (especially small and medium investment) in Armenia is too large because of the narrow domestic market and the high level of corruption and and of economic centralization.

Table 2. Dynamic of money transfers sent by Armenian migrants living abroad to Armenia, 2003-2008

Year	Total transferred sums (USD)		
	Nominal	Adjusted to currency exchange rate	Adjusted to currency exchange rate and inflation
2003	686,131,387	721,342,586	689,527,743
2004	813,000,000	793,448,844	710,186,809
2005	940,000,000	786,051,424	699,304,530
2006	1,175,000,000	903,878,781	783,848,890
2007	1,600,000,000	1,035,385,162	863,402,631
2008	1,572, 526.769	895,529,084	668,207,691

Source: UNDP, 2010, p. 121

There is a public institution, the State Employment Service, that is entrusted with rendering foreign employment services to Armenian citizens and many private companies offer such services. However, most Armenian labor migrants do not resort to their help or having asked do not receive help. Thus, according to the labor migration survey of 2009, when making decisions about the trips and employment overseas, a third acted independently and a tenth interacted directly with employers. More than half received extra help from social networks (relatives/friends). Private intermediaries played a certain role in the arrangement of trips of 6.3% of labor migrants. Even less prominent was the role of formal organizations: tourist agencies (they helped with the arrangement of trips to countries with visa regimes) 2.5%; private employment agencies, 0.8%!; and the State Employment Service, 0.3%!! (ILO, 2010, p. 67). Obviously this is unacceptable. Spontaneity, lack of organization, and insufficient preparedness of trips reduce their efficiency: only 54-60% of circular migrants assessed their most recent trips as having been successful to some degree (UNFPA, 2008, p. 43, p. 57). Some migrants, having found themselves working illegally, become victims of fraud and labor exploitation (ILO, 2010). It is necessary to improve the organization and the preparedness of circular migration movements among the Armenian population. But it is not clear how and through which structures this should and can be done. These are complex, ambiguous and extremely important issues. One cannot exclude the possibility that in cases of well-thought-through intervention and the desire to formalize these processes at all costs the situation may worsen, rather than improve. No doubt, properly grounded answers to these questions can be given only by a specialized study. Meanwhile, it is clear: the existing system of formal public and private structures may be able to fulfill this task, only if a radical reorganization takes place.

As for the “brain drain”, it was conceived and was active in the first decade of the post-Soviet era: the education level of emigration flows of those years was visibly higher than Armenian average level. This has ceased though to be a mass phenomenon. However, there are many people willing to emigrate among the more educated, competitive part of the population, and “brain drain” may become an acute problem again.

4. Conclusions and policy recommendations

There are reasons to believe that in the coming years the stock of Armenian circular migrants will be enriched with new persons. These are likely to be rural Armenians, who, due to the low efficiency of agriculture and/or the loss of land property as a result of the deepening market redistribution of agricultural land, will need to find new ways to earn their living. In their home country the demand for jobs already exceeds supply. They lack sufficient funds for emigration. So most of them will become labor migrants, probably seasonal labor migrants. Many small entrepreneurs will find themselves in a similar situation, as they will have to quit their businesses due to high competition and the growing monopolization of the economy. However, they usually possess better financial resources and human capital, so they can afford to make a choice between emigrating permanently or temporarily. Preferring the second option, they are likely to join the ranks of long-term labor migrants. In general, the number of new circular migrants will, we might expect, exceed the number of those who cease participation in this process (returning for permanent residence in Armenia and staying for permanent residence in destination countries). The total number of Armenian circular migrants will thus increase significantly. It follows from this that circular migration issues for Armenia are unlikely to lose relevance. In fact their relevance will only increase.

In conclusion let us note that circular migration is extremely important for contemporary Armenia, as in essence it is the only real alternative to the permanent emigration of the population. It is accompanied by a significant negative demographic, social and economic consequences: population decline; population imbalances by age and gender, as well as administrative and territorial proportions of its distribution; decline in birth rate and marriage rate; problems in political and economic development due to shrinking active population; brain and capital drain etc. Obviously, in all these respects return migration is less painful. Unlike permanent emigration, return migration can stimulate economic and social development. Efforts directed towards encouraging potential migrants to prefer return migration ought to be/become an integral and crucial part of migration policy of Armenia as a donor country. Unfortunately, there are no special programs aimed at this in Armenian migration policy. The government, it seems, has still not fully comprehended the opportunity here.

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**Legal Aspects of Circular Migration
in the Republic of Armenia**

PETROS AGHABABYAN

Legal Module

1. Introduction

Seasonal labour migration has been present in Armenia since the 1960s and the times of the Soviet Union. During those years 50,000 people from densely populated rural areas annually left their country, above all going to Russia, in order to work in construction: this phenomenon was known as “khopanchiner” (labour migrants) and its Russian synonym “shabashniki”. As a rule, departure from Armenia starts in early spring, reaching its height in March and April, and the return starts in the autumn in the second half of October. Annually, 60,000-80,000 people leave Armenia for seasonal work due to low salaries, lack of work and poor prospects. The main destination countries are the Russian Federation, Ukraine and Belarus due to the visa free regime, lack of language obstacles and then comes the US and other European countries¹. Though there is no legal formulation for circular migration in Armenian legislation, circular migration is indirectly referred to in separate legal acts and a number of international agreements/treaties signed by Armenia. They contribute or can contribute to the establishment of circular migration. They can stimulate it, as well as coordinate, to a certain extent, circular migration.

Legal aspects of circular migration should be observed from two angles:

- Circular migration in case of foreigners’ or stateless persons’ entry and residence in Armenia.
- Circular migration when Armenian citizens leaving the RA.

2. Freedom of Movement

The RA Constitution² declares the right to freedom of movement and the right to residence anywhere in RA territory (Art. 25). Along with the constitutional right to leave and return to the Republic of Armenia, this right enables a person to move freely within the territory of Armenia, and if necessary to be protected against any infringement³. According to Art. 25(3), “every citizen and everyone legally residing in the Republic of Armenia shall have the right to return to the Republic of Armenia.”

To the right to freedom of movement is linked the Decision of the RA Government № 297-N⁴ 24 March 2011, according to which the certificate of Return to the Republic of Armenia is a one-way travel document. This document enables RA citizens, those recognized as refugees or those who have sought asylum in the Republic of Armenia, and those with a right to reside in the Republic of Armenia to return quickly should they lack legal documents enabling them to cross the state border (point 1 of Annex 2 approved by the decision). Those illegally staying abroad without legal documents are also provided with return certificates in order to ensure their return to the Republic of Armenia. This is based on readmission agreements for those staying without authorization concluded with the relevant country (point 4).

Those who left Armenia for foreign countries and who have no legal document allowing them to cross the state border and who are unable to return to Armenia (loss of the document, unusable documents and etc.) can apply to the RA diplomatic representation or consular office and receive there return certificates.

¹ Protocol Decision of the RA Government № 51 dated 30 December, Annex, p. 8.

² See the Constitution of the Republic of Armenia, Chapter 2. The Constitution of the Republic of Armenia was adopted on 5 July, 1995, which was amended 27 November, 2005 and entered into force on 5 December, 2005. The official source is the Official Journal of Armenia (OJA) 05.12.2005/Special publication/

³ <http://www.concourt.am/armenian/library/cclibrary/2010/sahmanadrakan2010.pdf>. See Comments on the RA Legislation, p. 291.

⁴ Decision “On Approving the description of the return certificate of the Republic of Armenia and order of providing the return certificate. Entered into force on 16 April 2011, official source: Official journal of Armenia N 19(822), 04.06.11.

3. The circular migration of foreign citizens and stateless persons

The Law on Foreigners⁵ is quite liberal, and it includes some interesting provisions facilitating circular migration. For instance, it is relatively easy for a foreign citizen to obtain a permanent residence status in Armenia (Art. 17). This status is stable too considering that a foreigner will not lose it, even if he or she leaves Armenia for longer than 6 months, provided that the Armenian authorities are informed about such a long absence (Art. 17.1). Under such circumstances, we can assume that a foreigner might use this opportunity for circular mobility between Armenia and his or her or her country of origin. At the same time, it should be remembered that the same law stipulates those grounds which ban a foreigner's entry into the territory of the Republic of Armenia (Art. 8).

The fourth chapter of the same law creates favorable conditions for circular migration, which is entirely devoted to the employment of foreigners in the RA. According to Art. 22(2) of this law, foreigners may be employed in Armenia on the basis of a work permit issued by a competent authority. However, there has been no governmental decision adopted to implement this provision. Thus, procedures and terms of authorization or the refusal of a work permit or the governmental agency responsible for issuing such permits have not yet been specified. As a result, foreign citizens, at least to date, can work in Armenia without permission. It can be assumed that this kind of a situation is beneficial for foreigners as the employment contract concluded between a foreigner and an employer is already a sufficient grounds for him or her to be granted temporary residency in Armenia. Any residency status (having a document attesting the residency status) enables, in fact, a foreigner to leave the RA and return to the RA again (Arts. 12.1 and 6.1). Thus, Armenian legislation gives foreigners a favorable opportunity to migrate circularly.

Amendments made to the Decision of the RA Government No. 1417-N, 03.12.2009 "On the order of granting the conventional travel document"⁶ might also contribute to the circular migration of those recognized as refugees and those granted asylum in the RA. According to these amendments, the RA diplomatic representations and consular posts are given the authority to prolong the validity of the conventional travel documents of those granted refugee status and asylum in the RA staying abroad. Previously, the absence of such a provision was an obstacle for refugees staying abroad as upon expiration of the validity of their documents, they could not return to Armenia.

4. Dual Citizenship

The fact that Armenia allows dual citizenship (Law on Citizenship⁷, Art. 13.1), the simplified acquisition of Armenian citizenship for people with Armenian origin and the possibility of granting permanent residence status to the latter can also be interpreted as facilitating (or at least not hindering) the circular mobility/migration of Armenian citizens. A foreigner, who acquires RA citizenship, is not deprived from the citizenship of his/her country and still enjoys the protection and patronage of that country. At the same time being a dual citizen, enables a citizen to enter RA territory without an entry visa, it allows them to move freely within the country, choose their place of residence, and then, if necessary, return to the country of their first citizenship without any legal implication. The fact of being protected simultaneously by two countries eases circular migration. Moreover, establishment of dual citizenship is very important for members of the Armenian Diaspora, who wish to strengthen

⁵ Entered into force 3 February 2007 Amended 02.02.2010 (effective 13.02.2010), Official sources: Official Journal of Armenia No. 6(530), 24.01.2007.

⁶ Entered into force on the 2nd of January 2010, effective 30.07.2012, Official sources: Official Journey of Armenia (OJA) No.65 (731), 23.12.2009.

⁷ Entered into force 28 November 1995, last Amendments 06.04.2010 (effective 08.05.2010), Official sources: Bulletin of Parliament of Armenia No. 8, 1995.

their ties with their homeland. They can acquire RA citizenship in a much facilitated procedure without renouncing the citizenship of their own country.⁸

5. International Cooperation

Agreements, concluded in the framework of the CIS countries, also provide a good opportunity for circular migration. For example, according to the Agreement “On the movement of citizens of the CIS countries without a visa in the territory of the CIS”⁹ citizens of CIS countries, regardless of their place of permanent residence, can enter, leave, transit through, and stay in, the territory of the CIS countries without a visa while preserving the rules of residence and registry effective in that country. Bilateral agreements on reciprocal visits without a visa for citizens have been concluded with Belarus, Georgia¹⁰, the Russian Federation, Ukraine¹¹, Turkmenistan, and Kazakhstan. A similar agreement has also been concluded with Argentina.

In accordance with the Agreement “On cooperation in the fields of labour migration and social protection of labour migrants”¹², parties mutually recognize the following documents: diplomas, certificates on education, relevant documents on degrees, qualifications/specializations, as well as documents validating work experience. This creates the favorable prerequisites for finding a legal job and can contribute too to circular migration.

The Convention on the Legal Status of Labour Migrants and their Family Members adopted in the framework of the CIS¹³ regulates the whole cycle of migration of labour migrants coming from CIS Participating States and their family members. The Convention also covers seasonal workers and their family members during the period of their employment (Art. 15.1), thus creating better conditions for circular migration.

In the framework of the Mobility Partnership signed with the EU and its Member States on 27 of October in 2011,¹⁴ Armenia and participating Member States expressed their readiness to conclude necessary bilateral agreements on circular migration. However, no practical steps have been undertaken in this regard so far.

⁸ See Article 1 of the Law on Citizenship and the Annex N 2 of the Decision of the Government RA from 23 November 2007, N 1390-N.

⁹ Signed on 9 October 1992. Ratified by the RA Supreme Council Decision No. H.N-0921a-I dated 27 September 1993; Entered into force on the 27 September 1993. See the current status of ratification by CARIM-East countries on: <http://www.carim-east.eu/1289/agreement-on-visa-free-movement-of-citizens-of-the-cis-countries-on-the-territory-of-the-member-states/>

¹⁰ The agreement was ratified by the RA Supreme Council Decision No. N- 1064-I; adopted 25.05.1994; entered into force 25.05.1994.

¹¹ The agreement was ratified by the National Assembly, Decision No. N-167-2; adopted 04.04.2001; entered into force 25.05.1994.

¹² The Agreement was signed by all CIS states in 1994 in Moscow. See the current status of ratification by CARIM-East countries on: <http://www.carim-east.eu/1299/agreement-on-cooperation-in-the-field-of-labour-migration-and-social-protection-for-migrant-workers/>

¹³ See further details on: <http://www.carim-east.eu/1296/convention-on-the-legal-status-of-migrant-workers-and-their-families-adopted-by-cis-member-states/>

¹⁴ See: <http://register.consilium.europa.eu/pdf/en/11/st14/st14963-ad01.en11.pdf>

Circular Migration in Armenia

HAYKANUSH CHOBANYAN

Socio-Political Module

National policy-making on circular migration

Circular migration has been a feature of Armenian life since Soviet times. However, neither in the Soviet period nor currently is there any relevant state policy. In recent years circular labor migration has been largely advocated by the EU¹ to facilitate labor migrants' entry to host countries and their benefits from the experience. In the case of circular labor migration, migrants will direct funds to their native lands and gain work experience.

Since 2008 the government of Armenia has expressed its interest in cooperating with the European Union (EU) in managing labour migration issues. Establishing circular labour migration schemes with the EU has been raised and discussed by Armenian migration policy makers. Various policy dissemination workshops have been organized, among these the workshop in the framework of TAIEX² where some of EU labour migration management practices were discussed, such as legal work opportunities in the EU countries (European Pact on Immigration and Asylum – Blue Card and Circular Migration), new policies and practice in the EU: the liberalization of foreign labor usage in some Member States (the case of Sweden), the EU practice on bilateral agreements with countries of origin; and cooperation in circular migration schemes (the case of Portugal), etc.

Yet, several issues on circular migration have been of particular interest to Armenian policy-makers: *what is the difference between circular migration and seasonal migration? Are there circular migration schemes for highly-skilled migrants or is circular migration envisaged only for migrants with low qualifications? Are there such schemes only for former colonies and metropolises? What measures (legislative, institutional, campaign and etc.) should countries of origin carry out to be included in such a process?*

According to Armenian policy, one of the main tools for combating illegal migration is legal labour migration, and circular migration schemes are one option here³. And in the case of the EU the legal preconditions of circular migration were part of a Joint Declaration on a Mobility Partnership (MP) signed between Armenia and the EU in October 2011. Among other goals the Mobility Partnership has the purpose of better managing legal and labour migration, including circular and temporary migration, to promote a better framework for legal and labour mobility, including the facilitation of temporary and circular migration, supported by more information and concrete and effective initiatives as well as the protection of migrants⁴. In the Annex to the Declaration several initiatives are mentioned that countries are intended to take in the framework of the MP: a proposal by France to promote the circular mobility of young professionals and students; a proposal by Italy, Poland and Sweden to share information on migration through legal channels, including circular migration; a proposal by Romania to inform potential migrant workers from Armenia on legal migration opportunities and the risks related to irregular immigration, etc⁵.

However, one year after the MP was signed there have still been no steps to implement the MP.

¹ European Migration Network Inform (2011). "The interest in temporary and circular migration within the EU is primarily due to its perceived potential as a "triple win" policy tool for managed migration, because it may benefit the host society, as well as the migrant and the migrant's country of origin. Such forms of migration may provide a short-term workforce in the host country to fill labour and skills shortages and to meet the emerging needs of national labour markets more generally; support development in third countries; and reduce the phenomenon of "brain drain"."

² TAIEX Workshop on EU experience in labour migration management, accessed 15 August, 2012. <http://www.backtoarmenia.com/?page=news&nid=135>

³ "Concept for studying and prevention of irregular migration launching from the Republic of Armenia", approved by the Armenian Government protocol decision № 51 from 29 December 2011. Available at: <http://smsmta.am/?id=1012> . Accessed 5 September, 2012.

⁴ Joint Declaration on a Mobility Partnership between Armenia and the EU, p. 4.

⁵ The Annex to the Joint Declaration on a Mobility Partnership between Armenia and the EU, p. 2.

Circular migration schemes are also an effective tool for the regulation of the intensive emigration flows from Armenia according to the academics and civil-society representatives active in migration work in Armenia. *“An ideal model of Armenian circular migration is that migrants act collectively as working groups rather than as individuals. In this approach the circular migration can be conceptualized as a form of organized exportation of national labour force. Circular migration would need to be facilitated and encouraged by policies protecting the residence and naturalization rights of migrants in their host countries.”* (Poghosyan and Manasyan, 2012, p. 34)

The active involvement of NGOs needs also to be mentioned. In particular, enabling an environment for circular migration in Armenia is one of the key areas of the “Strengthening Evidence-Based Management of Labour Migration in Armenia” project⁶. The Project is jointly implemented by the ICHD (International Centre for Human Development) and the IOM (International Organization for Migration). It is a three-year project funded by the European Union with the aim of preventing the irregular migration of Armenian residents through the regulation of labour migration in Armenia. The project has also drafted the Terms of Reference: a guide for the creation and production of Five Country Guides for Planned and Semi-Planned Circular Labour Migration from Armenia to the EU. The ultimate purpose of the Five Country Guides is to provide ample information to unskilled and low-skilled workers involved in (planned or semi-planned) circular labour migration on country-specific procedures and requirements for engaging in planned or semi-planned circular migration; on the rights of labour migrants and other specifics; to increase awareness about legal circular labour migration; and to improve the management of migration, as well as to reduce irregular emigration from Armenia to the EU⁷.

The ICHD project is also the first attempt in Armenia to give conceptual definitions to “circular migration” in the Terms of Reference of the guidelines. According to this definition: *“Circular Labour Migration refers to the short term cross-border movements of people with the purpose to work”*. Besides the general definition there are also 2 other definitions: *“Planned Circular Labour Migration implies the utilization of a 3rd party involved in the CLM process, i.e. a PEA (Private Employment Agency) or any other form of recruitment agency operating on legal terms (e.g. employment contract/service contract) in compliance with Armenian national legislation, national legislation of target EU country and EU legislation”* and *“Semi-Planned Circular Labour Migration is a form of circular labor migration which does not involve a 3rd party, i.e. a private employment service or any other form of recruitment agency operating on legal terms (e.g. employment contract/service contract). In the process of semi-planned circular labor migration, arrangement and utilization of services assisting in the job search, financial arrangement etc. are done privately”*.

The first practical guide is intended for citizens of Armenia who plan to engage in planned or semi-planned circular labor migration to Sweden⁸. It provides a brief overview of life in Sweden, describes job searching, applications and other preparatory actions. It also provides details about procedures related to work permits and resident permits. The guide lists institutions and methods for protecting one’s interests while working as a circular labor migrant.

Despite elaborate policy initiatives, there are no concrete mechanisms or tools (signed agreements, etc.) in place to organize circular migration from Armenia either with the EU, the CIS or other third countries as of September 2012. Some steps have been taken only with the State of Qatar. But an agreement for the involvement of Armenian skilled labor force (in particular healthcare workers) in Qatar has only been pre-signed. The United Arab Emirates has also expressed an interest in bilateral

⁶ The web page of the “Strengthening Evidence-Based Management of Labour Migration in Armenia” project. Available at: <http://www.ulisses.am/eng/about-project/>. Accessed 25 August, 2012.

⁷ “Terms of Reference Five Country Guides for Planned and Semi-Planned Circular Labour Migration from Armenia to the EU”, 10.01.2012. Prepared by the ULISSES Unit within the ICHD.

⁸ The First Practical Guide for Planned and Semi-Planned Circular Labour Migrants from Armenia to Sweden is available at: <http://www.ulisses.am/eng/news/22/>. Accessed on September 3, 2012.

cooperation with Armenia in the field of labor migration. Currently Armenia is negotiating on bilateral agreements with two European Countries – France and Bulgaria.

a) Circular mobility between Armenia and the European Union:

The section above focused on circular migration. This section expands the concept and examines circular mobility, rather than migration.

The main flows between EU member-states and Armenia are for study purposes, economic reasons, family reunification, etc. However, most Armenian citizens leave for European countries due to economic reasons. But it should be mentioned that there is no circularity between Armenia and the EU since many people entering the EU are afraid to return because they are not sure if they will have chance to enter the Schengen area again. Therefore, temporary visitors do not leave EU countries when their visas (tourist, medical, student, etc.) expire, thus becoming irregular immigrants and they take jobs on the black market. In order to receive legal residence in the host country and to have access to social services they submit asylum applications. In most cases asylum applications are rejected, and hence, the migrants remain irregular migrants and remain in the host EU member state or they are sent back to Armenia.

According to UNHCR, Armenia is the other 40 countries in the world whose citizens most frequently sought asylum in Europe in 2011 (17th in 2010)⁹. 6,037 Armenians applied for asylum in European countries in 2011, an increase by a thousand compared to the year before (5,059 in 2010)¹⁰. The number of applications for asylum from Armenians in France doubled in 2011 to more than 3,600 as compared to the previous year's figure, making citizens of Armenia the third largest group of asylum seekers in France after Russians and citizens of the Democratic Republic of the Congo.

Thus, emigration from Armenia to EU countries starts, typically, as a legal trip but becomes irregular in countries of destination when legal stays expire. The reason for that are difficulties with acquiring the Schengen visa and lack of opportunities in finding jobs (high skilled and low skilled) in EU countries. The total volumes of migration from Armenia to European countries after its independence are about 150,000¹¹.

Perhaps, circularity will be facilitated after the implementation of the MP and the signing of a Visa Facilitation Agreement with the EU.

Official statistics on the number of Armenian citizens studying abroad do not exist. However, as the 2008 OSCE survey suggests, more than half of student migrants (56%) went to study in Russia, and 26% went to the European Union: student migration involved less than 1% of Armenian households (OSCE, 2008, p.12). Armenian students are studying abroad in different educational institutions of European countries. In most cases, the education programs granted the student a scholarship covering tuition, transportation, and other expenses and returning to the country of origin after studies is usually a precondition of educational programs.

In order to prevent irregular emigration flows from Armenia some steps have already been made. Awareness raising companies with the purpose of preventing illegal emigration from Armenia and of publicizing legal opportunities have been organized in the *marzes* (regions) of Armenia. These are the regional seminars for groups responsible for migration issues: journalists, staff responsible for providing social and employment services at regional centers, local government officials, and

⁹ UNHCR (2011) Asylum Levels and Trends in Industrialised countries. Available at: <http://www.unhcr.org/4e9beaa19.html>

¹⁰ Ibid.

¹¹ Speech of the Head of the Migration Service of Armenia Gagik Yeganyan in the international conference “Two Pillars of European Integration: Values and Practices” held in Yerevan on 21-22 November, 2011 was organized by the International Centre for Human Development NGO.

representatives of private employment agencies and non-governmental organizations. Seminars are organized by different NGOs in close cooperation with the Migration Service of Armenia.

b) Circular mobility between Armenia and the CIS:

Seasonal labour emigration to Russia and to other Soviet Republics began in the 1960s and this phenomenon is known among the population as a “khopan” (Armenian folk term for leaving to work abroad)¹². It was a spontaneous response to the significant differences between the levels of socio-economic development in the different administrative-territorial units of the country, and quickly grew into a stable and large-scale phenomenon. As a result, by the mid-1980s, the number of spring-fall labour emigrants reached about 1% of Armenia’s total population and about 2% of the country’s labour resources (annually, about 30,000-40,000 people) (UNDP, 2009, p. 30). The destinations were no longer limited to the Southern regions of Russia (which used to be the most popular destination for the majority of the labour emigrants). The geography rapidly expanded to cover all of Russia, including the far North and the East, extending beyond Russia to Kazakhstan. This outflow, which consisted mainly of active working-age men, was typically engaged in construction (UNDP, 2009, p. 30).

Since 1988 the migration situation in Armenia changed abruptly on account of interrelated factors: inter-ethnic conflicts (first and foremost the Karabakh crisis); the 1988 earthquake, and the political, social, and economic transition including the collapse of the USSR, the economic and energy blockade, the transition to a market economy, the collapse of the industry and fundamental structural shifts in the economy. During this period, the phenomenon of seasonal/long-term external labour migration changed too. The number of temporary labour emigrants fell in the late 1980s. Some of them used their experience of contract work, savings, and contacts in destination countries to get involved in the emerging cooperative business “кооперативы” mostly in Armenia, but also in the labour migration destination countries (UNDP, 2009, p. 39). The latter transformed into either permanent emigration or a new phenomenon for the migration situation of Armenia, so-called “long-term external labour migration”: work and travel lasting a year or more, which became the most prevalent migration flow from the country in the early post-Soviet period. In the aftermath of the earthquake, 1989-1991, the phenomenon practically disappeared. Virtually all of the long-term external labour migrants became involved in the restoration of the earthquake zone. Recovery efforts almost fully ground to a halt after the collapse of the USSR, forcing many of them to resume journeys abroad as early as in 1992. However, subject to the radically changed political, social and economic conditions of the post-Soviet area, the seasonal labour migration flows again turned into a survival strategy (UNDP, 2009, p. 39).

This has resulted in migration features such as:

- Duration uncertainty: with the potential of changing from seasonal to permanent, from short-term up to one year, to long-term,
- Multi-sector nature: migrants became engaged not only in construction, but also in trade, public catering, production and services.
- Low thresholds of earnings: deteriorating working, living and housing conditions.
- Increase in the risk posed by migration: travel, nature of employment, etc.

¹² The absence of jobs in Armenia, regardless of stable jobs, well-paid jobs or any jobs, deservingly takes the spotlight in the discussion about the reasons for labour migration. However, some other reasons may account too for Armenian migration activity. One of them is the tradition of “khopan”. Surveys showed that in some villages, from which many men have been continuously leaving to work abroad over a long period of time, labour migration has become a traditional way to support families. Many young men from these villages leave to work abroad after they have completed their military service. At this point they have to think about how to earn money for their future family. These young men do not make serious efforts to find a job in Armenia; they just leave, as their fathers or uncles did before them (ILO, 2009, p.9).

Presumably, this played a significant role in the formation of a huge flow of “new labour migrants” (those who had not previously been labour migrants).

During 2002-2007 labour migrants dominated the external migration flows from Armenia (OSCE, 2008, p. 55). In the specified period of time, labour migrants constituted 94% of all migrants (while only 3% left Armenia with a purpose to permanently reside abroad, and 2% had an intention to study abroad). Annually, about 60,000 labour migrants go to seek jobs in Russia (ILO, 2009, p. 17). The majority of them engaged in labour migration more than once. The overwhelming majority of migrants are 20-54 years old men (80%).

The majority of seasonal migrants have a tendency to leave the country either at the beginning or at the end of spring and to return to Armenia by the end of autumn/beginning of winter. As for the duration of the trip, the majority of migrants stayed abroad between 5 and 11 months. Consequently, the mean actual duration of the trip was nine months, which is in fact somewhat longer than the average duration initially planned by the migrants (ILO, 2009, p. 10).

The main labour emigration flows from Armenia are move towards Russia (up to 90%) and some other CIS countries including Ukraine, Belarus and Kazakhstan. There are no special visa regimes between Armenia and most CIS countries. Besides, travel expenses are cheaper compared to travel to European countries. Knowledge of Russian by Armenian migrants and cultural similarities also makes Russia and CIS countries more attractive destinations. Those migrants who leave for Russia (and particularly for Moscow) can move more freely and repeatedly return to Armenia. Circular migration seems desirable from the point of view of both Armenia and Russia: Russia receives labour and skills, while Armenia benefits from remittances sent by migrants and from returning skilled migrants.

c) Circular mobility between Armenia and third countries (non-CIS and non-EU):

Circular mobility between Armenia and third countries (non-CIS and non-EU) is very low. There are foreign students who come to study in Armenian higher-educational institutions, labour immigrants who come for work purposes as well as diaspora Armenians from Middle East countries (Lebanon, Syria, Iran, etc.) for holidays.

The number of foreign students in Armenia stood at about 5,300 persons in 2009/2010, of whom 1,200 were citizens of CIS countries (Armenia Extended Migration Profile, 2011, p. 33). Almost half of foreign students studying in Armenia were of Armenian origin: they usually arrive from Georgia, Iran, the Russian Federation, Syria, and the United States. Non-Armenian foreign students arrive in Armenia mainly from Iran, India, Syria, the Russian Federation, and China.

The Law on the Legal status of Aliens provides that aliens have to receive a work permit in order to work in the Republic of Armenia; however, this provision is not in force at the moment, as there is no competent authority which would be responsible for the implementation of this provision. Taking into account the described situation, it is difficult to determine how many foreigners arrive in Armenia to work. The majority of foreigners, working on the territory of the Republic of Armenia are citizens of Iran, as well as ethnic Armenians, arriving from Georgia. It must be noted that these are only experts' estimates, as reliable statistics on this category of persons do not exist (Armenia Extended Migration Profile, 2011, p. 33).

With regard to the Armenians leaving for third countries the migration flows to the US needs to be mentioned: it stands at around 10% of the migration flows, but there is no circularity¹³.

On a broader scale more than 55,000 citizens of Armenia have immigrated to the US 1991-2008 (Gharakhanyan 2009, p. 4).¹⁴ The mean age was 40, and the prevailing mass, approximately 55 percent,

¹³ “Armenia to apply circular migration principle”, in Tert.am on November 21, 2011. Available at: <http://www.tert.am/en/news/2011/11/21/gagikeganyan/>. Accessed on August 25, 2012.

were females. Armenian citizens were immigrating to the US with the intention of permanent residence. Hence, only 892 persons or around 1.5 % of the total (55,000) have returned to Armenia (Gharakhanyan V., 2009, p. 17). And it should be noted that the overwhelming majority of these people (returnees) were obliged by the U.S. authorities to leave the country because of illegal stays there.

According to the same research there are more favourable conditions in the US that attract Armenians' attention more than any other country:

- a) It is possible to find a job in the US in a comparatively short period of time if a permit of entry to the country is obtained;
- b) The US, apart from being a country of safety and wealth, has a very soft policy towards immigrants, granting them citizenship and permanent resident status with more simplified orders in comparison with other countries;
- c) Many citizens of Armenia had, and still have, relatives and friends in the US who were, and still are, ready to help and assist them financially both to immigrate and to settle in the new world permanently.

Circulation and return are an integral part of the whole process of development, and are driven by development in home and host countries. Such circular and temporary migration can be managed to promote development in Armenia. Concluding agreements on circular migration and the development of implementing mechanisms of these agreements with the countries of destination would be beneficial for all sides involved in the migration process: for a country of origin, a country of destination and for the migrant themselves.

(Contd.) _____

¹⁴ Gharakhanyan V. "The Number and Reintegration of Armenian Migrants Returned to Homeland from the United States of America: 1991-2008", Yerevan, 2009. Research has been implemented in the scope of the CRRC Research Fellowship Program, financed by the Carnegie Corporation of New York.

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**The Demographic and Economic Framework
of Circular Migration in Azerbaijan**

ARIF YUNUSOV

Demographic and Economic Module

The term “circular migration” is not used in Azerbaijan or, indeed, in many other countries of the former Soviet Union, as it is unclear and inadequate. The authorities do not keep records of migrants working regularly abroad who financially support their families back home and who, on a regular basis, or after a certain period, return home. The only registered people are those who emigrate or immigrate permanently. Even when the exact number of migrants who successfully land a job abroad or in Azerbaijan on a contractual basis is understood, there is no detailed information or records. The only data available comes from other countries and international organizations. For example, the Russian authorities have recently begun to register those migrants granted temporary residence and work permit, though this does not include everyone: in fact, it includes only a small number of migrants. Most Azerbaijani migrants work in Russia irregularly.

There are reasons why the term “circular migration” is not used in either state migration programs, or in academic research. The role of the state is at the heart of circular migration. The state to a large extent defines migration forms and is in charge of the social protection of migrants and migration monitoring. However, the role of state in migration processes was not very significant in Azerbaijan in the early post-Soviet period. And often it was altogether absent, and migration processes developed on their own.

After Azerbaijan gained independence in 1991, many citizens started to leave the country in search of jobs. In the 1990s the main flow was directed to Russia and other CIS countries due to the absence of problems associated with language and communication, as well as the absence of a visa regime. This aspect of migration in Azerbaijan was seen as part of the labor migration, both regular and irregular. However, it had all the signs of circular migration, as a significant share of labor migrants from Azerbaijan then considered their departure to Russia and other CIS countries as a temporary and necessary step. Hence Russia and other CIS countries were perceived by labor migrants from Azerbaijan not as sovereign states, but as an economic resource, i.e. countries where migrants arrived temporarily with one priority, earning money. However, for many objective and subjective reasons only a small fraction of Azerbaijani labor migrants lived and worked in Russia and CIS countries regularly working under contracts. Meanwhile, they had close ties with their families in the home country, but due to a complex and unclear situation in Azerbaijan they did not rush to come back, preferring to send money to their families and only occasionally returning home.

There were other reasons as well for temporary emigration: young people got an opportunity to receive good education abroad and some people left for medical treatment. Azerbaijani public institutions did not play any role in this migration dynamic. Everything was done by citizens themselves or at the expense of foreign funds or organizations. Initially preference was given to emigration to Russia and CIS countries. Then they got an opportunity to work, study and undergo treatment in Turkey, Iran and other Eastern countries.

Soon, in the late 1990s, an opportunity emerged to study in the best educational institutions of the West. Some young people left to study there, having received scholarships from international organizations and foreign embassies in Baku. These scholarships were mostly granted by the U.S. and French embassies, the British Council, the German Academic Exchange Service (DAAD) and the Open Society Institute (Soros Fund). However, most students left on their own.

And yet again, the state was not taking part in these processes. Azerbaijani citizens resolved their problems independently or relying on the assistance of those charitable organizations that helped them depart for work or training. The process was to a large extent uncontrolled and was not registered anywhere. That is why there is very little information, and the data are incomplete: no details on social, demographic and other parameters of those who left to work, study or undergo treatment, besides there are no guarantees that the available data are correct.

In addition, the events of the early 1990s led to the collapse of the old state machine in Azerbaijan, particularly the monitoring and registration system.

By the late 1990s the situation in the country had stabilized somewhat. At this point there was the possibility of fully reconstructing the system of population registration, as well as restoring public structures in regulation and assistance to citizens in their migration aspirations. This included circular migration, as the latter's role and significance have been growing. In this period, new directions came up in the migration aspirations of Azerbaijani citizens. Now more and more citizens traveled to Western countries, as well as the Muslim countries of the East. And inevitably legal issues came up, not only because of the visa regime, but also because of the need for legal residence and the right to work. Migrants now needed contracts in the destination countries, which is something that they did not have in Russia and other CIS countries.

On the other hand, as tension escalated in the Middle East, especially around Iran and Iraq, the flow of irregular migrants to Azerbaijan became more and more tangible. During the creation of the oil pipeline in Baku-Tbilisi-Jeyhan and the activation of Western and other companies in the Caucasus, the number of regular and irregular migrants from other countries visibly increased in Azerbaijan.

Under these circumstances more attention was devoted to migration issue in Azerbaijan, including to the resolution of legal issues. The International Organization of Migration (IOM) played a crucial role in the change of the Azerbaijani authorities' attitudes to migration policy. Finally, in 1998-2000 more than 50 normative and legal acts were adopted to regulate the migration and labor activities of the population (Yunusov, 2003, p. 235).

Let us note that the term "circular migration" is absent from these legal acts and documents, as the IOM, the main partner of Azerbaijan assisting in development of the legislation, does not use this term.

But what is more important is that these documents allowed the regulation of activities of numerous companies that emerged in the late 1990s and which sent Azerbaijani citizens abroad, while attracting labor migrants to the country. Now organizations willing to use the foreign workforce in Azerbaijan must apply to the Ministry of Labor and Social Protection of Population, in order to obtain a special permit in the form of a license. The following fact demonstrates that these legal documents are crucial and timely: as of early 2003, more than 100 foreign companies applied to this Ministry and obtained licenses giving a right to invite a foreign workforce to the country (Yunusov, 2003, p.238).

Legal acts were adopted to regulate and assist migrants in Azerbaijan in their labor activities abroad and new migration structures were established. Finally, 19 March 2007 a Presidential decree established the State Migration Service (SMS) that was entrusted with the formation of the "state policy in migration, development of governance system, regulation and forecast of migration processes, coordination of activities of relevant state institutions". In other words, a special public institution emerged in Azerbaijan that was responsible for migration policy formation and the resolution of migration-related problems.

After this it seems that an opportunity emerged for the improvement of the situation in migration, in connection with the arrangement of the regular departure of Azerbaijani citizens overseas and the attraction of foreign labor migrants to the country. However, in reality the situation did not change much. A foreign workforce procedure does not cover CIS citizens coming to Azerbaijan, as there is no visa regime for them. That is why they do not see the need to register, associated with bureaucratic red-tape and bribes. Besides, many Turkish and Iranian companies and organizations in Azerbaijan do not register foreign specialists, using loopholes in the tax and migration legislation in the destination country.

The regulation of the labor activities of Azerbaijanis abroad is also far from perfect, as legal documents cover only regular persons arranging employment overseas. If Azerbaijanis find jobs on their own (for instance, using a newspaper advertisement or via the Internet), this is nobody's concern. And this is how most citizens depart to work abroad.

There is a special public structure (the State Migration Service) and other agencies regulating migration processes and the departure of citizens abroad as they look for jobs or as they begin their studies there: the Ministry of Labor and Social Protection of Population, the State Committee for

Refugee and Internally Displaced Persons Affairs, the State Committee for the Affairs of Azerbaijanis Residing Abroad, the Ministry of Interior, the Ministry of Foreign Affairs, the Ministry of National Security, the Ministry of Healthcare and Education. However, until now there is no clear idea in society about the scale of the exit and return of citizens. It is impossible to obtain these data in the State Statistics Committee (Goscomstat). There is simply no such information on circular migration on the websites of the relevant public agencies. There is just periodic information or interviews of heads or representatives of these public agencies that come up in mass media on the role of circular migration. Summing them up, one can make the following conclusions:

- Regular migration among Azerbaijanis has three directions (Northern, Western and Eastern) and can be divided into labor, intellectual and educational migration.
- The main destination country in the northern direction for permanent Azerbaijani migrants is Russia.
- In the post-Soviet period, especially in the 1990s, most labor migrants from Azerbaijan were among irregular migrants and their activities were to a large extent criminal, or they did not have employment contracts. Meanwhile, Azerbaijani migrants retained ties with their families in the home country, sent money there and visited them occasionally.

The situation changed after the new migration policy of Russia was adopted in late 2006, which forced Azerbaijani labor migrants to regularize. And for the first time the number of labor migrants from Azerbaijan regularly employed in Russia became known. According to the Russian Federal Migration Service, in 2006 the number of Azerbaijani citizens holding temporary work permits in Russia stood at 28,319, and it increased to 57,562 in 2007 and 76,283 in 2008, to drop again to 60,664 in 2009 and 40,349 in 2010. However, the share of Azerbaijani citizens over the total number of foreign workers in Russia stood at around 3% in these years. Regular labor migrants from Azerbaijan are employed in the wholesale and retail trade, construction, processing industry and transport. Thus, in 2009, 19,000 (31.4%) labor migrants from Azerbaijan were employed in the retail and wholesale trade, 18,900 (31.2%) in construction, 5,400 (9.0%) in the processing industry, 3,200 (5.3%) in transportation (Z.R.Ragimova, M.B. Mamedova. Migration, pp. 99-100).

The situation of western migration was somewhat different. In 1990-2007, 100,000-120,000 citizens went from Azerbaijan to the West (to the US and the European Union) (Yunusov, 2009, p.172). Political refugees and irregular migrants constitute a significant share of Azerbaijani citizens in Western countries. The number of those who come to work or study regularly in the West is extremely small. Mostly they are those who came to work under contracts and special business programs or via employment institutions. In the first case they worked at oil and gas companies, but only a small fraction of Azerbaijani migrants is employed there. For example, there are around 100 migrants from Azerbaijan working in Norway under the contract with an oil company Statoil: “They have a high salary, they live in two- or three-storied mansions, have their own shops, cafes etc. They come to Baku, whenever they wish, and this is paid for by the company. They have no political or other serious problems” (Yunusov, 2009, p.165).

Persons coming to the European Union countries via agencies and employment companies are in a slightly different position. Jobs in western countries were offered to Azerbaijani citizens aged 25-45 in advertisements placed in the mass media by agencies and companies (Table 1).

Table 1. Jobs offered to Azerbaijani migrants in a number of Western countries (autumn 2001)

Country	Job offered	Wage	Note
UK	Work at construction sites and factories	5 GBP an hour	Knowledge of English is not mandatory
Spain	1. Men: at construction sites 2. Women: housekeepers, care for the elderly, personnel at restaurants and hotels	Men: 900-1,200 USD a month. Women: 500-600 USD and room and board	Living expenses – 100 USD a month, food expenses – 100 USD. Knowledge of language is not mandatory at first
Italy	Women: housekeepers, maids, personnel at restaurants pizzerias and hotels, care for the elderly	450-600 USD a month (full room and board)	Knowledge of English is desirable, but not mandatory. Accommodation and meals at the expenses of employer
Cyprus	Men: agriculture Women: housekeeping, waitresses, tourism or agriculture	Men: from 10 USD a day and more. Women: from 300 USD and more	Apartment and food at the expense of employer. Knowledge of English is mandatory, Greek is desirable
Portugal	Men: construction workers, brick masons, tillers, plasterer, finishers, unskilled workers Women: cleaning offices, personnel at hotels	Men: from 4.5 USD an hour; unskilled workers – from 3 USD an hour. Women: 35 USD a day	Men: accommodation, 80 USD a month at an apartment or free of charge in construction vans, meals, 70 USD a month. Women: accommodation, 80 USD a month, meals, 80 USD a month
US	Men: unskilled workers at construction site, personnel at fuel stations, janitors at supermarkets Women: nannies/housekeepers, personnel at fuel stations, motels	Men: from 300 to 450 USD a week. Women: from 300 to 350 USD a week	Living conditions: apartment worth 100 USD a month, and meals worth around 100 USD a month. Accommodation and meals at the expense of employer for persons working in family

Source: weekly newspaper “Week” (Baku), 7-13 September 2001

The situation with job offers did not subsequently change much. Meanwhile, Azerbaijanis in European countries strive to get employed in trade, restaurants, Turkish construction companies, car care centers, or they buy used cars to resell them in CIS countries.

However, employment overseas using special agencies did not become popular in Azerbaijan due to mass-scale corruption and bribery, as well as numerous cases of fraud by companies and employers.

In addition to regular employed migrants, a lot of students from Azerbaijan studied in the West. Over the period of 1991-2006 up to 1,000 young citizens of Azerbaijan received education in the US within various educational programs and around 250 in the EU (Hikmet Haji-zadeh, 2007, p.3). After the completion of studies they came back and found jobs. However, as sociological studies and numerous interviews have demonstrated, most such young citizens eventually left the country. They went back to work where they had received their education. The reason was a lack of satisfaction with the situation in the country, corruption and problems in democracy.

Approximately the same is true of the situation with migration to the east. This is mostly irregular labor migration, while a certain share of migrants can regularly find jobs or study opportunities. Here Azerbaijani migrants gave preference to Turkey. Turkish statistical data (table 2) are much more reliable and authentic in this regard. They should be used as a point of reference:

Table 2. Migration exchange between Azerbaijan and Turkey, 2000-2006, persons

Years	Arrived in Turkey from Azerbaijan	Departed from Turkey to Azerbaijan	Migration balance
2000	179,878	152,789	-27,089
2001	178,861	148,503	-30,358
2002	163,114	144,266	-18,848
2003	192,645	190,713	-1,932
2004	330,313	326,937	-3,376
2005	411,652	400,703	-10,949
2006	380,132	382,717	2,585
TOTAL	1,836,595	1,746,628	-89,967

Source: Turkish Statistical Institute (TURKSTAT)

According to the table 2, about 90,000 citizens of Azerbaijan entered Turkey in 2000-2006. About 73,000 were granted residence permits and the right to work in Turkey.

Many scientists work in Turkey, and many young people from Azerbaijan get their education there. Starting from the 1990s qualified and experienced workers in Azerbaijan, mainly physicists and mathematicians began to work in leading universities and scientific agencies in Turkey. Over 2,000 young people from Azerbaijan got Bachelor, Master and PhD degrees in Turkey in 1991-2009 under the "Big Student Project" program initiated by Turkey. Many of the students who had entered a PhD program and defended theses continued to work in leading Turkish universities and scientific organizations (Suleymanov, 2010, p. 111).

The number of Azerbaijani migrants or scientists/students in other countries of the Islamic East is not so big. There are more students in religious universities/colleges and these are mainly in Turkey, Iran and Egypt.

A small number of Azerbaijani citizens enter eastern countries regularly. The talks between Azerbaijan and Middle East countries revealed a demand for doctors, construction workers, drivers and service workers. Azerbaijani medics (doctors and nurses) successfully work in Saudi Arabia, Yemen, Kuwait and Bahrain. Azerbaijan has especially fruitful cooperation with Saudi Arabia: in 1996 the countries entered into negotiations, and in 1998 the first 21 Azerbaijani medics went to Saudi Arabia. Subsequently, their number steadily increased and by early 2004 about 400 doctors and nurses from Azerbaijan worked in Saudi Arabia. They work on a contractual basis for at least one year with extensions. Yet, over time, they have fallen in number and currently about 200 medics are working in this country. The medical personnel were selected by the specialists from Saudi Arabia. Knowledge of English was a must in addition to required qualification skills. The popularity of Saudi Arabia among Azerbaijani medics can be explained by the working conditions there: a monthly salary of a nurse is USD 1,200 or USD 1.800 for a doctor. Given that the monthly expense of Azerbaijani citizens for food stands at as much as 100, and that accommodation is provided by the receiving party, it goes without saying that doctors come back home with significant amounts of money (Arif Yunusov, Migration, pp. 209-210).

In recent years the oil boom has turned Azerbaijan into a receiving country for labor migrants. In 2009, 8,708 foreign citizens from 88 countries worked in 1,007 enterprises of Azerbaijan with individual permissions. In 2010 a labor migration quota made 10,700 people, in 2011, 9,815 people. In 2010 5,900 permissions were granted to foreign citizens, 2,808 individual permissions were extended.

In 2010 citizens of 80 countries worked in Azerbaijan with work permit; 2,305 were citizens of Turkey, 1,156 were British, 291 were Georgians, and 266 were Indians. The majority (over 90%) of working foreign citizens is represented by males aged 25-35 (Rahimova and Mammedova, 2011).

However, the majority of labor migrants reside irregularly in Azerbaijan and remain there frequently without licenses. Meantime, the increased number of migrants has recently given rise to a migrant phobia among the local population.

Therefore, the brief review shows that the overwhelming majority of Azerbaijani migrants works and stays regularly in other countries; they have poor communication with state agencies, which causes lots of problems for migrants and receiving countries. The same can be said about migrants staying in Azerbaijan. But the main thing is the lack of understanding over circular migration. This understanding can help reduce circular migration and puts irregular emigration and immigration into a legal framework.

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The Legal Framework for Circular Migration in Azerbaijan

ALOVSAT ALIYEV

Legal Module

This report describes circular migration in Azerbaijan, state policy for this pattern of migration and the impact of this policy on migrants.

1. Current Situation

The term “circular migration” is rarely used in Azerbaijan and it is not defined by national legislation: though more than twenty legislative acts regulating migration processes have been adopted in Azerbaijan, none of them include “circular migration” or explicitly regulate this pattern of migration.

Most of the remittances that significantly contribute to the economic growth of the country are sent to Azerbaijan by circular migrants. Most construction companies in Azerbaijan are foreign companies. They typically bring foreign labour migrants to Azerbaijan with tourist visas and later involve them in construction projects there¹.

No detailed reports on current internal and external migration processes in Azerbaijan are available. Reports developed by the State Statistic Committee include those who left the country after de-registration from their places of residence and this data is provided by the Ministry of Internal Affairs.

As migrant workers, citizens of Azerbaijan are mainly employed abroad on a temporary basis.

As migrants employed in Azerbaijan come mainly with three-month tourist visas, they have to leave the country, obtain new tourist visas and return every three months. Those who do not follow these rules are subject to the administrative penalty imposed by the State Migration Service.² As for citizens of the CIS countries, they do not need visas but they have to leave Azerbaijan prior to expiration of the ninety-day period and then return again. This procedure is usually implemented by employers. This practice threatens national security in terms of employers’ wrongdoing, migrant workers’ well-being and the violation of national legislation.

Since 2007 the state migration policy of Azerbaijan has gradually become tougher. The State Migration Service, which implements state migration policy, takes severe action against migrants. It is though not severe against employers who ignore laws ensuring the rights of employees³.

2. National Legal Framework

The main legislative acts regulating foreigners’ entry to and exit from Azerbaijan as well as grounds for obtaining visas are the following: the Law on Exit, Entry and Passports; Regulations on Rules of Foreigners and Stateless Persons’ Transit through Azerbaijan; Regulations on Implementation of the Law on Exit, Entry and Passports; as well as bilateral agreements on visa-free regime between Azerbaijan and other countries.

¹Today in Azerbaijan almost all big constructions (for example, Shah-Dag winter-summer Tourist Complex in Gusar region, the “Flame Towers” Complex, the Crystal Hall constructed for Eurovision Song Contest) are run by foreigners and they in their turn have brought labour migrants to Azerbaijan with tourist visas who have undertaken construction activities. Hundreds of such labour migrant has applied to the “Azerbaijan Migration Center” Public Union in 2011-2012 and the lawyers of Public Union have applied to different state bodies concerning these appeals.

² See web-site of the State Migration Service: www.migration.gov.az.

³ Though according to the quota established by the Cabinet of Ministers 11,900 migrant workers should be employed at the national labour market, while the number of foreigners involved in the construction sector exceeds this figure many times over.

2.1 Freedom of Movement

Every Azerbaijani citizen has the right to exit from and enter the country freely through the checkpoints established for these purposes⁴. Citizens of Azerbaijan cannot be deprived of the right to exit from and enter their country⁵.

The citizens' right to exit from and enter the country, in line with the procedure provided by the current legislation, is exercised only upon availability of his/her passport and permit to enter another country, i.e. a visa issued in accordance with international treaties⁶.

Foreigners and stateless persons are allowed to enter and exit from Azerbaijan, as specified by law, when they pass through special checkpoints while holding personal passports and permits i.e. visas issued in accordance with international treaties. Foreigners having permission to live in Azerbaijan on a temporary or permanent basis are allowed to enter and exit from Azerbaijan only with their passports (or any other border crossing document). They need too the temporary or permanent resident card issued by the relevant executive authority⁷.

2.2 Visa Policy

In accordance with intergovernmental agreements to which Azerbaijan is signatory and under the proposals put forward by President, the Parliament establishes a visa-free (simplified) procedure for entering Azerbaijan for foreigners with passports. A visa-free regime was established with the following CIS countries: the Russian Federation, Ukraine, Belorussia, Moldova, Armenia, Georgia, Kazakhstan, Kirgizstan, Uzbekistan and Tajikistan.

The duration of the foreigner's temporary stay in Azerbaijan is one indicated in a visa issued to him/her. The duration of the foreigner's temporary stay in Azerbaijan under the visa-free regime does not exceed 90 days.

In order to obtain a visa, a foreigner is to submit his/her written application indicating purpose of visit and date of entry with the required documents including receipt on the duly paid visa fee⁸. This must be submitted to embassies/consulates or (in cases established by the relevant executive authority) directly to the MFA of Azerbaijan.

According to Paragraph 30 of the Regulations on the Implementation of the Law on Exit, Entry and Passports, a foreigner, who has been expelled from Azerbaijan, shall have no right to return to that country again.

In May 2012 Azerbaijan introduced a simplified visa regime for the EU citizens from 1 May - 1 June 2012 while hosting the Eurovision Song Contest. In addition negotiations between EU and Azerbaijan on visa free regime for the EU citizens travelling Azerbaijan are underway.

2.3 Citizens of Azerbaijan Residing Abroad

Citizens of Azerbaijan employed abroad are indicated in national legislation as "countrymen living permanently abroad", "Azerbaijanis residing abroad", "stateless ethnic Azerbaijanis living abroad"⁹.

⁴ Article 28 of the Constitution of AR.

⁵ Article 2 of the Law on Exit, Entry and Passports.

⁶ Article 2 of the Law on Exit, Entry and Passports.

⁷ Article 12 of the Law on Exit, Entry and Passports.

⁸ Article 14 of the Law on Exit, Entry and Passports.

⁹ Law on Policy on Azerbaijanis Living Abroad.

The Law on Labour Migration includes terms and conditions for Azerbaijani citizens' employment abroad. According to this Law (Article 12), citizens of Azerbaijan, when 18 and older, have a right to perform remunerated labour activities in foreign countries. A citizen of Azerbaijan may be employed abroad by a foreign legal entity or a natural person, through the mediation of a legal entity registered officially in Azerbaijan or in an individual manner. Article 22 of the "Law on Labour Migration" stipulates that legal entities and physical persons shall be responsible for violation of this Law in accordance with the legislation of the Republic of Azerbaijan. However, in the national legislation there is no implementation mechanism, nor any sanctions for the violation of abovementioned provisions.

In this context, it should be noted that according to Article 14 of the "Law on Labour Migration", the limitation of labour migration for Azerbaijani citizens in certain qualifications may be determined by higher executive powers. This provision too can be interpreted as a restriction on the circular migration of Azerbaijani migrant workers.

Moreover, the non-adoption of Law on dual citizenship in Azerbaijan negatively affects circular migration. However, provisions of the current law of Azerbaijan "On citizenship of the Republic of Azerbaijan" allow Azerbaijani citizens to get citizenship in any other foreign country. Thus, for example, a citizen of the Republic of Azerbaijan residing in Russia can get Russian citizenship. Despite this Azerbaijan does not recognize the affiliation of its citizens to the citizenship of any foreign country¹⁰.

2.4 Foreigners in Azerbaijan

Under Article 6 of the Law on Labour Migration, even foreigners and stateless persons and holders of individual permits for labour activities in Azerbaijan, cannot be considered as circular migrants. This is so as these permits do not give them right for multiple entries to and exit from the country so they need a new visa for every entry/exit until they are issued a temporary residence permit. Annual individual work permits allows their holders to work in Azerbaijan and serve as a basis for their single entry to and exit from the country.

Presently, only those persons who have been granted immigrant status in Azerbaijan may be employed in Azerbaijan without work permits. They are also allowed to exit from and enter the country without a visa by presenting their passports and immigrant identity document. Although there is no limitation on the duration of the immigrant's stay out of Azerbaijan, his/her absence in the country for more than six months during a year serves as a basis to discontinue that status¹¹.

The Law on Labour Migration includes some provisions on near-border migration which are more or less similar to circular migration. According to this Law, near-border labour migration is regulated by international treaties to which Azerbaijan is signatory. Such treaties' provisions on near-border labour migration are only applied to the border areas of Azerbaijan¹². However Azerbaijan has not yet signed this kind of treaty with any of its neighbouring countries. Apart from Article 20 other rules established by the above mentioned Law are not applicable in the case of near-border labour migration.

According to the Law on Labour Migration (Article 8 of the Law) a foreigner employed by a legal entity or a natural person may enter Azerbaijan in accordance with the procedure defined in their legislation. A work permit issued for that migrant worker at the same time is considered his/her temporary residence permit. That migrant worker should leave Azerbaijan when his/her work permit expires or when his or her labour contract terminates. If the labour contract is cancelled for reasons not

¹⁰ Article 10 of the Law "On citizenship of the Republic of Azerbaijan".

¹¹ Article 13 of the Law on Immigration.

¹² Article 20 of the Law on Labour Migration.

depending on the migrant worker, costs for the return of that migrant and his/her family members are to be covered by the employer¹³. There is a general opinion that this law needs to be amended and that a work permit should not be issued for one year as at present. Rather the period would be better tailored to suit the work performed by the migrant. For instance, work permits in the construction sector should provide multiple entries/exits for its holder.

A former work permit holder can apply for a new work permit in Azerbaijan after residing outside of Azerbaijan for at least one year since completion of his/her last employment¹⁴. Such a provision impedes circular migration.

Usually a person who becomes a citizen of any other country without discontinuation of citizenship of Azerbaijan is regarded as a foreigner and should obtain a visa to enter Azerbaijan.

Non-recognition of dual citizenship by national legislation¹⁵, and lack of simplified procedures for granting citizenship and issuing permanent residence permits to ethnic Azerbaijanis living abroad further impedes circular migration. Although more than 90% of foreigners entering Azerbaijan are migrant workers almost half of these migrants are either citizens of the ex-USSR who lived in Azerbaijan in Soviet times or ethnic Azerbaijanis living now in other countries: there is no simplified procedure for them to enter or exit from Azerbaijan. It is almost impossible for members of these two groups to leave Azerbaijan for a long period without losing their residence permits. Holders of individual work permits have no right to multiple entries to/exits from the country. Usually foreigners come to Azerbaijan with tourist visas and obtain individual work permits for 1 year. The mentioned permit serves only as a ground for allowing its holder to stay in the country.

Conclusion

Considering the facts described above, Azerbaijan should be interested both in adopting legal and regulatory acts and in concluding bilateral or multilateral agreements on circular migration. After all, circular migration is a temporary, renewable, periodical (freedom of movement should be provided for every period), legal process that ensures respect to migrants' rights and that matches the labour demand of one country with supply in another¹⁶.

¹³ Article 8 of the Law on Labour Migration.

¹⁴ Article 9 of the Law on Labour Migration. Under paragraph 3.1 of "The rules on providing foreigners with individual permission for realization paid labour activity", as a rule individual work permission is issued for one year and each time it can be prolonged for one year, but should not exceed four years in general.

¹⁵ Article 10 of the Law on Citizenship of Azerbaijan.

¹⁶ <http://www.carim.org/index.php?callContent=238>

**Azerbaijan in the Context
of Circular Migration Processes**

RUMYANSEV SERGEY

Socio-Political Module

In this analysis, I will rely on approaches that were developed at “The Global Forum on Migration and Development (GFMD)” (Brussels, July 2007) both in their original and further evolved forms. I will rely too on “more dynamic notion of circular migration”, in the context of which this type of migration flows are viewed as: “continuing, long-term, and fluid pattern of human mobility among countries that occupy what is now increasingly recognized as a single economic space. <...> At their best circular migration policies align the objectives of origin countries, destination countries, and the migrants who comprise these flows. Circular migration is distinct from temporary migration in that circular migration denotes a migrant’s continuous engagement in both home and adopted countries; it usually involves both return and repetition. Circularity produces the most positive outcomes when migrants move voluntarily between countries to pursue various interests”¹. Thus, I will concur on the premise that **circular migration** implies an interested and reciprocally complementary involvement of three parties: the countries of emigration and immigration, and the actual emigrant. It is this approach that the structure of this text complies with. So:

- *First*, I will analyse the effects of this type of migration that are significant for Azerbaijan as a country of emigration (this being, in my view, the most important aspect);
- *Second*, I will assess the impact of circular migration on Azerbaijan as the country receiving work migrants (though this aspect is not central);
- *Third*, I will offer my thoughts about the situation of work migrants, those leaving Azerbaijan and those arriving in this country to work.

Azerbaijan as the Country of Origin in the Context of Circular Migration Processes

I consider Azerbaijan primarily an emigrant country: certainly the number of emigrants from Azerbaijan is many times higher than the number of immigrants². We do not have any precise data, but the estimates for work migrants vary from 500,000-600,000 to one million or even 1.2 million³. It can be asserted that most work migrants aspire to long (three to five years and more) stays abroad. At the same time, their contacts with the country of origin normally stay firm and active.

1). Policy-framework on circular migration.

The first step toward building an official policy was the “Capacity building for Migration Management” programme, carried out in cooperation with the International Organization for Migration (IOM). The next step in policy on migration regulation came with the “State Migration Management Policy Conception of the Republic of Azerbaijan”, adopted in July 2004. This plan implied international cooperation in the prevention of illegal migration, and in the signing of an international readmission agreement. Moreover, the authorities have acknowledged the need to conclude international agreements, which would help Azerbaijani citizens residing and working abroad.

However, labour migrants still do not receive any form of help from Azerbaijan. No real measures have been taken to prevent the departure of highly-skilled specialists from Azerbaijan (brain drain)

¹Newland K., Agunias D. R., Terrazas A., Learning by Doing: *Experiences of Circular Migration*. Migration Policy Institute (mpi), Program on Migrants, Migration, and Development, September 2008, p. 2.

²According to official data, which are very doubtful in terms of plausibility, in the period from 1990 to 2007 net migration remained negative and was 183.3. Starting from 2008, official statistics recorded a positive net migration. But in the period from 2008 to 2010, positive net was only 3.4. Downloaded from: International Migration, 2010. <http://www.azstat.org/statinfo/demographic/en/index.shtml#>, on 31 May 2012.

³See, for example: Interview with the President of Azerbaijan Ilham Aliyev on the Radio Station “Echo of Moscow”, <http://www.echo.msk.ru/programs/beseda/48358/>, on 26 March 2012; Migration in the Republic of Azerbaijan: A Country Profile. (2008). IOM, International Organization for Migration, p. 17; World Bank Migration and Remittances Factbook. (2011). The World Bank, Washington, p. 25.

and /or to facilitate the return of those who had emigrated from the country before or after the adoption of this plan. There are also no programmes for highly-skilled emigrants to get involved in temporary work in Azerbaijan.

At the same time, the political authorities are conscious of the benefits of circular migration and do their best to preserve the favorable migration regime. Of key importance are relations with Russia where most work migrants go. The preservation of visa-free travel remains the main factor in relations with Russia and the wider CIS. Since 2007, when Russia introduced migration quotas, the authorities have also been trying to preserve conditions beneficial for themselves⁴. On the whole, considering the high level of corruption in all CIS countries, neither the quota principles nor any other laws save the closure of borders or the abolition of visa-free travel will have a major impact on migration flows.

The government adopted an ambitious plan for education programmes in EU countries for 2007-15⁵. Many young Azerbaijani go to study in EU countries and the US regardless of whether or not the Azerbaijani authorities support them, using their own money or scholarships and grants. The authorities claim that they wish to develop these ties. As a rule, the authorities do not interfere with Azerbaijani specialists when they take internships abroad (from 2 month till 2 years and even more). Often, indeed, the specialists are able to reserve their positions at state institutions (Universities, Research Institutes of National Academy of Sciences, etc.).

2) Main strengths and shortcomings of the Azerbaijan's policy-framework on circular migration.

The main challenge is that there are no stable policies for creating the favourable conditions for circular migration. I have only two points to make here:

1. Creating and maintaining conditions for free movement of migrants between Russia and Azerbaijan (migration profitable quotas etc.)⁶;
2. Study abroad programmes for students for 2007-2015 (generally EU countries, Great Britain, US, Japan, Russia and Turkey).

The effect of state programmes and agreements is notably reduced because of high corruption⁷, nepotism and the regional clan system, at which a whole line of command is being built in Azerbaijan⁸. Essential shortcomings include the lack of stable state programmes to promote highly-skilled specialists in seeking temporary employment abroad. The other main shortcomings the very low level of legal support of labour migrants in receiving countries (especially in Russia) and the limited possibilities of their active participation in the homeland's political life (parliamentary and presidential elections). The Azerbaijan authorities do not limit migrant contacts with their families in

⁴The first intergovernmental (Azerbaijani-Russian) agreement aiming at adjusting work migration was signed in 1994. This agreement was confirmed by "Friendship Agreement" (1997). The latest such agreement in 2012 was "Agreement between the government of the Russian Federation and the government of the Azerbaijani Republic on cooperation in the field of work migration". Downloaded from: <http://pravo.gov.ru/laws/acts/9/494948451088.html> on 30 August.

⁵According to the Azerbaijani Education Ministry, about 5,000 students are to study in EU countries, the USA, Japan, etc. under the "State Programme on education of Azerbaijani youth in foreign countries in 2007-15". Downloaded from: <http://www.edu.gov.az/view.php?lang=ru&menu=256> on 30 August.

⁶In the middle of 1990s Russia kept land frontiers with Azerbaijan closed for a long period of time. This created obstacles for the free movement of migrants. Since 2007 Russia has enacted migrations quota system. This stirred up particular resentment in Azerbaijan. As a rule, the Azerbaijan authorities were trying to react as soon as quickly: conducted negotiations, concluded new agreements with Russia etc.

⁷Global Corruption Report (2009). Corruption and the Private Sector. Transparency International, Cambridge University Press, p. p. 49, 115, 401.

⁸Abbasov Sh. (2011), Achievements and Missed Opportunities. In: South Caucasus: 20 Years of Independence, Berlin: Friedrich-Ebert-Stiftung, pp.108-122.

Azerbaijan (financial support/remittances etc.). But they do interfere with their wide and free political implications in the homeland Azerbaijan.

At the same time the support of educational programmes abroad may be considered as a key strength of state policy in the sphere of circular migration. Despite the weaknesses of state programmes (corruption etc.) the Azerbaijan regime in principle does not interfere with activity of citizens therein⁹. Put in other terms, these migrants can remain registered at their place of residence: this helps in drawing up all necessary documents in the country of origin. Some of them can keep their job positions too.

Directions and driving forces of circular mobility dynamics of Azerbaijan

Most labour migrants go to CIS countries and particularly to Russia. Considering the focus of this analysis, I do not view the issue of emigrant remittances from CIS or EU countries, etc. as the key one. At least once a year though most labour migrants pay relatively long visits to Azerbaijan: typically spending their holidays there. Normally migrants bring along a great deal of money. How much money is unknown because these financial flows are carried through the border in cash and cannot be recorded in statistics¹⁰. However, we can assert that a migrant (especially if s/he arrives in Azerbaijan together with a family) brings on average more money than they can transfer home in the space of a year. This assertion can also be applied to a smaller group of migrants who work in two countries at the same time for many years (three to five years and more) in different periods. These include artists and persons involved in art, cultural activities, etc. (primarily musicians) who find work in Turkey during the tourist season; as well as migrants who work in construction or trade. Normally, when leaving for several months a year, migrants do not transfer money through the banks. Rather they carry the money they earn in cash when they return home.

Most emigrants from Azerbaijan (including a significant part of those who left their country for ever) keep property, or invest money in Azerbaijan, if their earnings allow them to accumulate enough savings. Mostly ‘property’ means flats in urban areas or houses with land in the countryside. In this way, they facilitate the stabilization of the market and keep house prices high. What is more important, these investments facilitate the circular nature of migration and help sustain it. Very often Azeri migrants buy real estate in Azerbaijan (they built private houses and buy flats and plots of land). This kind of investment facilitates construction and also maintains high prices for real estate. Work migrants from Azerbaijan to CIS countries show the greatest activity in purchase of real estate in Azerbaijan. A considerable part of emigrants to the EU and other countries also prefer to invest part of their money in real estate in their home country. However here it should be stressed that far fewer Azerbaijani nationals leave for EU countries than for CIS countries.

Such investments have to do with the low political activity of work migrants. Most work migrants invest their finances in the country of origin. They do not necessarily expect major change but rather they hope that the current “stable situation” will continue. In addition, hard work conditions (long working hours - 10 to 12 hours and more, illegal status, lack of registration, etc¹¹), and the inaccessibility of polling stations are also a serious obstacle to their political activity: it should be noted that the number and geographical distribution of polling stations outside Azerbaijan do not reflect the settlement patterns of work migrants,. The ruling authoritarian political regime is no doubt happy about this situation. The fact that a considerable part of the able-bodied population of the

⁹ Unlike, for instance, Belarusian and Turkmenistan regimes.

¹⁰ Even excluding this money in 2009 the World Bank Migration and Remittances Factbook placed Azerbaijan in the top ten of recipient countries and estimated a total amount of remittances of 1.5 billion USD per year.

¹¹ See, for example: Hancilova B., Allakhveranov A., Zeynalova M., Khudiyeva N. (2008), Determinants of Labour Exploitation and Trafficking in Azerbaijan: An Exploratory Overview, EU.

republic finds work outside this country and that it is effectively stranded from political life decreases risks for the regime. It also, naturally, hampers reforms in the country.

Turkey is another of those countries where migrants flows are directed. As with Russia, Azerbaijani citizens go to Turkey to work or study. However, the volume of migrant exchange with Turkey is not equal to the exchange with Russia. Then also a considerable number of young women go to work in sex industry in Turkey, the Arab Emirates, Pakistan and others countries in the region.

Fewer citizens of Azerbaijan go to EU countries, the US and Canada for various reasons. First of all, the main obstacle is the visa regime. The second obstacle is the language barrier (that is absent for migration to CIS countries and Turkey). These circumstances complicate the possibilities of employment. In the meantime, the EU countries, the US and Canada remain attractive because of high-living standards there. As a result, a certain number of citizens have been leaving Azerbaijan for the EU (especially Germany, the UK, Sweden and Holland). Generally, such migrants intend to stay in the EU for a long period of time. A number even seek political asylum. Many of them prefer to stay after receiving education. As a rule, such migrants have close connections with their home country.

Thereby, the main reasons/motives of circular migration in CIS countries are economic ones. A lack of well-paid work drives hundreds of thousands of people of working age to leave the country each year. For the same reasons Azerbaijan citizens leave too for other countries (Turkey, the United Arab Emirates, Pakistan, etc.).

In principle the same reasons force Azerbaijanis to emigrate to EU countries, the US and Canada. However, having emigrated to these countries, Azerbaijan citizens sought to stay there permanently. At the same time, they maintain strong links with their home country. It should be noted that these countries are attractive for those who want to get qualified education (along with Turkey). As a rule, political refugees from Azerbaijan are directed to EU countries.

Two key points can be singled out that provide the greatest benefits to the regime that rules the country.

Point *one* is that a major outflow of able-bodied people allows high incomes from corruption schemes to be maintained, through which a major part of money ascribed to the state budget goes. If there was not a massive outflow of emigrants, the authorities would have to invest a major part of the money in the stabilization of the socio-economic situation in the country.

Point *two* is that the Azerbaijani authorities have a large reserve work force that can always be involved in works in the country. For example, the construction boom in Azerbaijan has allowed many work migrants in the past few years to come back to this country. The authorities are able then to involve the necessary number of workers, without needing long-term planning for their employment and social security.

Circular migration has also become a convenient channel in providing work to highly-qualified specialists who do not strive to emigrate forever and who fail to find a permanent job in this country¹². These are mainly musicians, teachers at universities, etc. Most of them find work in Turkey or CIS countries. Effectively, here, too, the political regime has a privileged position as it has an opportunity to attract these migrants to work in the country of origin should such a need arise.

However, the post-soviet generation who received their education abroad, primarily in the EU countries and the US have gone unheard. The government does not aspire to attract such students into the country, the most ambitious and successful of whom remain in the countries where they received their education. At the same time, the nepotism and corruption in Azerbaijan undermine the value of

¹²In turn, in 2008 Azerbaijan saw the start of the development of regulations for the establishment of migration quotas for foreigners, which proceeded under the patronage of the Ministry of Labour and Social Security. In 2010, the quota was 10,700, and in 2011 9,815.

the students who receive education on scholarships made available to them by the state. At the same time, these kinds of emigrants preserve close ties with Azerbaijan and, undoubtedly, are a resource for reforms that may take place in the future or for democratization of the political field.

Effect of circular migration on Azerbaijan as a host country

The main effect of circular migration for Azerbaijan as the host country is the opportunity to attract a relatively small number of highly-qualified work migrants. That is a very restricted group of people. For example, there are about 5,000 Turkish citizens and 1,500 UK citizens officially working in this country. There are many of the former in the construction business, where they are particularly important as engineers, while the British typically work in the oil business. One can assume that such specialists could be recruited from among local residents too. However, it is more advantageous for the oil companies to bring their own people in. Considering the significance of the oil extraction industry for the country, the regime is prepared to make concessions to these major transnational oil concerns and so create attractive conditions for them.

One should not overestimate the overall impact of work immigration into Azerbaijan. But one more aspect should be pointed out. Azerbaijan borders Iran, a considerable part of whose population are, in ethnic terms, Azeris. Azerbaijan attracts a certain number of ethnic Azeris from Iran who come there to buy real estate, i.e. while living mainly in Iran they invest money in Azerbaijan: they have doubts about the stability of the Iranian regime and see Azerbaijan as a possible haven. And this is also part of that migration potential which allows the construction market to expand, and which maintains high prices for real estate in Azerbaijan. Also, many ethnic Azeris from Georgia find jobs in Azerbaijan. However, in their case, the effect of immigration is very low. Often they fail to find a legal job they become illegal migrants.

Effect of circular migration on migrants

The preservation of ties and contacts across the former USSR allows many citizens of Azerbaijan to improve their material situation by migrating. At the same time, the preservation of a common economic space for CIS countries allows migrants to keep up very frequent contacts with their country of origin. In principle, there are no serious obstacles to the preservation of such contacts for those migrants that live and work in EU countries. Traditional intra-family ties (i.e. expanded type of family that consists of three and more generations) remain and also push the migrants into maintaining firm ties with their country of origin. In addition, for migrants from Azerbaijan, most of whom are from the countryside, the preservation of firm ties with their “small motherland” (i.e. their village/settlement) is of the utmost importance: this means ties with the wide network of close and distant relatives and fellow countrymen. So, there is no doubt that the opportunity for preserving such family ties and ties with fellow-countrymen suits the migrants themselves, too. This may mean that emigrants are uncertain about their future in the country where they are. On the other hand, this implies a wider opportunity of choice in investing free money.

5) Recommendations

There has long been a need to develop regulations for the provision of long-term residency permits for migrants in CIS countries. It is also important to facilitate dual citizenship. Most European countries do not require migrants to abandon their first citizenship and this is undoubtedly the right approach. The lack of norms for receiving a long-term residency permit and dual citizenship in CIS countries facilitates the preservation of high levels of corruption.

Certain changes are needed in respect of those who go to study in EU countries and the US. Countries that receive these students need to monitor their level of education in a more serious

fashion. At the same time, conditions need to be created for students who study without support from Azerbaijan (on grants and scholarships) under which they can maintain frequent contact with Azerbaijan. Many of them never come back to Azerbaijan because they cannot find a place for themselves in their country. However, they offer a potential channel for ideas and norms of democratic system which could have an essential impact on changes in this country. In order to implement this potential, support programmes for short teaching courses/workshops/different kinds of summer schools could be organized in Azerbaijan and these could be delivered by such specialists.

Finally, it all depends on priorities. If, for instance, EU countries are in need of migrants from Azerbaijan, then special-purpose programmes for circular migrants should be created and developed. Within a framework of these programmes they would be able to search for work and to acquire language skills in Azerbaijan before they return home. The Azerbaijani authorities interested in reduced pressure on the labour market and social sphere could organize such language courses. For the implementation of such projects programme information centres are necessary With easily accessible information for potential migrants. This sphere should be controlled by EU agencies directly because corruption and lack of transparency are the main obstacles in spreading this kind of information in Azerbaijan.

**The Demographic and Economic Framework
of Circular Migration in Georgia**

MIRIAN TUKHASHVILI

Demographic and Economic Module

1. Introduction

A critical limitation in addressing circular migration trends and characteristics of circular migration from Georgia is the lack of appropriate statistics to quantitatively measure and assess the phenomenon. The current system in this respect is disastrous. In Georgia, even the balance of external migration cannot be established, there are practically no statistical data as regards territorial population mobility. In this regard, the immediate substantial reform of the official migration statistics and its provision with respective resources is indispensable. On the other hand, migration research in general, including research on circular migration, requires significant development. It needs to acquire a systemic nature, as the existing incidental studies are fragmented and completely inadequate compared to the significance of the problem.

Given the current situation, this note will first address the importance of developing and supporting circular migration schemes for Georgia. Second, it will offer a number of crucial measures to be inserted in rational and efficient circular migration policies.

2. Why are circular migration schemes so important for Georgia?

Developing and facilitating organized circular migration schemes would promote migration efficiency and decrease those high social and economic losses that are typical of current labour emigration trends from Georgia. In particular:

- In the post-soviet period the population of Georgia decreased by more than 1 million: 20% of the country's population. Then a further 10% of the population left abroad seeking employment. The balance of permanent migration has still been negative. The circular form of labour emigration is likely to produce a positive impact on the demographic development of the country by addressing depopulation dynamics (see Tukhashvili and Shelya, 2012).
- The formation of circular migration schemes is a way to ensure that the labour markets of sending and host countries will become even more interrelated, and, in general, that the international labour market will become more effective. Due to its uncontrollable nature, the workforce that currently leaves to work abroad is sometimes the workforce demanded in the labour market of Georgia itself. Poor labour market policy on site and insufficient information awareness boost inefficient emigration.
- Circular migration is a valid alternative to irregular migration. Rational circular migration policies help with social vulnerability and the difficult stressful situations stemming from irregular employment of migrants abroad. The scale of legal migration from Georgia to Europe is, indeed, almost insignificant, which generally aggravates the social situation not only in the host country, but in Georgia itself too. Indeed, the development of circular migration is in itself the basis for a decrease of irregularity.
- The development of circular migration will reduce social problems in Georgia generated by the factual separation of migrant families. The widespread condition of irregularity of Georgian migrants living abroad does not allow them to adopt family reunification schemes with numerous negative consequences. As indicated in our previous research on return migrants, during the entire period of emigration (4 years on average) 57% of respondents could not stay with their families even once.
- The formation of circular migration schemes speeds up and increases the chance of using accumulated human capital abroad in the homeland. In view of the high intensity, complex demographic situation and irregularity, it can play a special role in Georgia both from the economic and social point of view.

3. How to enhance and support circular migration schemes

The formation of circular migration policies includes the following priorities: signing international agreements on sending and receiving the workforce; social protection of labour emigrants; decreased number of deportations; and, in general, abandonment of deportations that violate human dignity (for example, the transfer of deportees from Russia to Georgia by a freight carrier in 2006). A significant outcome could be reached by the maximum regularization of the workforce currently employed irregularly abroad, it is also worthwhile granting dual citizenship.

To develop an efficient circular migration policy, some specific measures should be adopted:

- Improving the knowledge of labour markets' structures of sending and host countries to create an information system for the job vacancies market and the harmonization of internal and external markets. Currently, only 12% of Georgian labour migrants know where they are going to be employed abroad in advance.
- Diminishing bureaucratic barriers by promoting a simplification in immigration-emigration processes. In Georgia's practice the current process is extremely complex, drawn out and contains a number of hurdles. Based on the materials gathered in Georgia during the latest studies (European Initiative Liberal Academy of Tbilisi, 2012), the bureaucratic system related to exit permits is extremely visible.
- Ensuring adequate, decent employment of newcomers to immigration countries who have arrived seeking a job in line with their professional qualifications as well as human resources. This means the promotion of workforce supply in accordance with labour market requirements, the arrangement of preliminary special education and, in general, the encouragement of accumulation of emigration human capital.
- In Georgia a relevant role will be played by the development of efficient policies targeted at facilitating the return process and the reintegration of migrants. Reintegration is one of the major and most problematic stages of circular migration. Small-scale studies on the subject in 2009-2011 identified significant tendencies and problems typical of the reintegration stage in Georgia. The research materials have pointed out that 40% of returnees are absolutely determined to enter labour emigration again. The main reason for this is feeble reintegration activity.
- It is vital to define reasonable, optimal migration duration. The average duration identified as a result of research among migrants who have returned to Georgia is four years: though we need to define varieties of different durations as well as their economic and social desirability. Migration of any duration has its disadvantages but these disadvantages can be kept to a minimum.
- The general formation of circular migration among Georgians will largely depend on the development of border labour migrations. Currently circular migration exists on the border between Georgia and Turkey, Armenia and Azerbaijan and more exceptionally at the border with Russia in the Qazbegi administrative municipality. Despite the visa-free regime (except Russia), the store for the growth of border migrations is huge due to the fast-growing economy in these areas and extensive prospects for economic border integration. From the social point of view, as regards essence and effectiveness, a growth in the intensity of border shuttle labour mobility among these countries is realistic. It must be studied and presented as an object of active migration policy and at the same time included in a general policy of circular migration. Still, currently, despite the visa-free regime, there are numerous gaps in the development of border migration both from the organizational point of view and from the point of view of employment and social protection. The prospects for border migration in Georgia are extensive given that that a significant proportion of the population in these regions comprises the majority ethnic group of the bordering state and these populations are often identical from the linguistic, cultural and confessional perspective (border migrations with Azerbaijan and Armenia). This

process will enhance the regulation of near-border labour markets and will diminish the excessive inclination of the population to reach EU states and other more distant countries.

- Last but not least, the informational and statistical base of the migration process needs to be improved dramatically. Thus, the formation of circular migration is the key task in terms of managing the external migration of the Georgian population and its national as well as international role is extremely vital. The development of a circular migration policy will be extremely important not only for regulating the mobility of the Georgian population, but also from the point of view of settling problems of European integration in Georgia.

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**The Legal Framework of
Circular Migration in Georgia**

GAGA GABRICHIDZE

Legal Module

1. Georgian Legislation

In Georgian legislation the term “circular migration” is not used. Though, there are several provisions which are relevant to the fact of circular migration.

1.1 Freedom of Movement

According to the *Constitution of Georgia*,¹ everyone legally in Georgia shall be free to leave Georgia.² This right may be restricted only: in accordance with the law; in the interests of securing national security or public safety; for the protection of health; for the prevention of crime; and for the administration of justice that is necessary for maintaining a democratic society.³ This reservation does not limit the right of citizens of Georgia to freely enter Georgia.⁴ Special restrictions regarding the exit of citizens of Georgia are set in the *Law on the Rules of Georgian Citizen's Entry into and Exit from Georgia*.⁵ In particular, a Georgian citizen may be refused to exit Georgia if he/she is wanted by the law enforcement agencies of Georgia or if he/she has presented any invalid or false documents.⁶ Reference should also be made to the *Decree of the President of Georgia of 27 February 2012, No 142*⁷ regulating the issue, validity and use of the return certificate to Georgia, which is a document to be issued to Georgian citizens in specific cases so that they can return to Georgia.

1.2 Citizenship

To some extent, one of the provisions of the *Organic Law on the Citizenship of Georgia*⁸ may be regarded as problematic with regard to the circular migration of Georgian citizens. Namely, a citizen of Georgia permanently living abroad can lose Georgian citizenship if he or she has not been registered at the Georgian Consulate within two years.⁹ At the same time, while generally prohibiting dual citizenship, the *Constitution of Georgia*¹⁰ provides for an exemption which allows the President of Georgia to grant citizenship to a citizen of a foreign country who has a special merit for Georgia or grant the citizenship of Georgia to him/her for state interests.¹¹ In practice, this competence is used extensively. This *de facto* dual citizenship may allow circular migrants to leave Georgia and return without legal impediments. Here should be mentioned too the provisions of the *Law on Legal Status of*

¹ Adopted 24 August, 1995. „Sakartvelos Parlamentis Utskebebi“ 31-33, 24/08/1995.

² Article 22.2.

³ Article 22.3.

⁴ Article 22.4.

⁵ See Articles 17-18. The Law was adopted 7 December 1993 (Last amended 25 May 2012). „Sakartvelos Parlamentis Utskebebi“, 1993, 12-13.

⁶ Article 10.

⁷ Decree No 142 of 27 February 2012 of the President of Georgia on Approval of Statute on Certificate to Return to Georgia. „Sakartvelos Sakanonmdblo Matsne“, www.matsne.gov.ge, 27/02/2012.

⁸ Adopted on 25 March 1993 (Last amended 25 May 2012). „Sakartvelos Respublikis Uzenaesi Sabchos Utskebebi“, 25/03/1993.

⁹ Article 32.1.

¹⁰ Adopted 24 August 1995. „Sakartvelos Parlamentis Utskebebi“, 31-33, 24/08/1995.

¹¹ Article 12.2.

*Aliens and Stateless Persons*¹² which foresees the possibility of granting a temporary and permanent residence permit to a person whose citizenship of Georgia has been suspended.¹³

1.3 Recognition of Diplomas

The recognition of education obtained abroad, which might be relevant for supporting circular migration, is a competence of the National Center for Educational Quality Enhancement. The recognition process is regulated by the *order of the Minister of Education and Science of Georgia of 1 October 2010*.¹⁴ It covers the recognition of general education as well as higher and vocational education. Within the recognition process the National Center for Educational Quality Enhancement verifies the authenticity of diplomas issued by the educational institutions of foreign countries. It determines the compatibility of the qualification in these diplomas and the learning outcomes attained during the study period with Georgian qualifications.¹⁵

1.4 Legal framework facilitating circular migration of aliens

Although the Georgian legislation does not define the term “circular migration”, its provisions allow back and forth mobility of foreign citizens. In this context, reference should be made to *the law on Legal Status of Aliens and Stateless Persons*,¹⁶ stipulating the conditions for entry and residence in Georgia. It determines *inter alia* categories of visas,¹⁷ their validity period and the persons entitled to obtain them.¹⁸ It sets too a list of countries whose citizens or permanent residents do not require visas for entering and staying in Georgia for up to 360 days¹⁹. Moreover, the law contains the same provisions on the right to leave Georgia as Article 22.3 of the Constitution of Georgia (see above) but with regard to foreign citizens.

Economically-active foreign citizens who want to enter Georgia may generally obtain an ordinary or study visa.²⁰ The long validity period of such visas can be useful for circular migration: ordinary visas are issued either with the validity period of 360 days, which includes the right of multiple entries to Georgia or with the validity period of 90 days with the right of multiple or single entry to Georgia.²¹ Study visas are issued with the validity period of 360 days. In the context of circular migration, the possibility of issuing a multiple-entry visa may also support the intention of foreign citizens to travel to Georgia on several occasions. It should also be noted that for performing labour activities in Georgia there is no need to obtain a work permit. After the expiry of the validity period of the ordinary visa, an alien willing to work or study in Georgia has only to obtain a temporary residence permit.²²

¹² Adopted 27 December 2005 (Last amended 25 May 2012). „Sakartvelos Sakanonmdeblo Matsne“, 3, 16/01/2006.

¹³ Articles 19.2 and 21 (e).

¹⁴ Order No 98/n of 1 October 2010 of the Minister of Education and Science of Georgia on the Approval of the Procedure of Validation of Georgian Educational Documents and Recognition of Foreign Education and Fees. „Sakartvelos Sakanonmdeblo Matsne“, 126, 01/10/2010.

¹⁵ Article 4.4.

¹⁶ Adopted 27 December 2005 (Last amended 25 May, 2012). „Sakartvelos Sakanonmdeblo Matsne“, 3, 16/01/2006.

¹⁷ Article 6.

¹⁸ Articles 7-10.

¹⁹ Article 4.5. Generally, Currently citizens of 76 states need no visa to enter and stay in Georgia.

²⁰ Article 9-10.

²¹ Article 9.2.

²² Article 9.1¹.

The *Law on Legal Status of Aliens* also determines types of residence permit (temporary and permanent residence permits),²³ designates authorities responsible for issuing entry²⁴ or residence permits²⁵ and regulates all other procedural or substantive issues.²⁶ It should be mentioned that while a temporary residence permit shall be issued to those foreigners willing to stay in Georgia on several occasions for not more than six years,²⁷ having legally lived in Georgia for at least 6 years is just one of options for obtaining a permanent residence permit.²⁸ More importantly, the law does not differentiate between the rights of persons having a temporary residence permit with those with permanent residence permit.²⁹

Georgian legislation does not contain provisions on absence and re-entry: foreign citizens residing in Georgia are allowed to leave the country with the prospect of re-entry at a later stage without losing their residence status. At the same time, the *Law on Legal Status of aliens and Stateless Persons* provides for the termination of the term of (temporary or permanent) stay in Georgia, the cessation of labor activities or other relations for which the residence permit was obtained.³⁰ This provision gives wide discretion to authorities thus undermining the residence status of those foreign nationals who even temporarily cease to work in Georgia.

2. International Cooperation

From the instruments elaborated within the framework of international cooperation the Mobility Partnership initiative between the European Union and Georgia needs to be flagged up. The joint declaration of the Mobility Partnership was signed 30 November 2009. One of the purposes of this initiative was the development of circular and temporary labour migration schemes.

17 June 2010 the Agreement between the European Union and Georgia on the Facilitation of the Issuance of Visas³¹ and 22 November 2010 the Agreement between the European Union and Georgia on the Readmission of Persons Residing without Authorization³² was signed. Both Agreements came into force 1 March 2011.

As a part of the Mobility Partnership initiative, Georgia and France are working on a bilateral agreement on Circular Migration and the Residence of Professional Workers. The implementation of the Targeted Initiative for Georgia “Support reintegration of Georgian returning migrants and the implementation of EU – Georgia readmission agreement” is also based on the objectives of the Mobility Partnership. It started 16 December 2010. The project was implemented by 9 EU member states (Belgium, the Czech Republic, France, Germany, Italy, the Netherlands, Poland, Romania and Sweden) and the IOM.

²³ Article 16.

²⁴ Article 13.

²⁵ Article 18.

²⁶ See Article 14 (grounds for refusal of such permission); Articles 19-20 (conditions and procedures for issuing temporary and permanent residence permits); Articles 19-20 (conditions and procedures for issuing temporary and permanent residence permits); Article 23 (grounds for refusing to the Residence Permit); Article 25 (grounds for termination of the term of stay in Georgia); Article 26 (duty for the registration of aliens in Georgia, terms and exemptions); Article 26 (duty for the registration of aliens in Georgia, terms and exemptions).

²⁷ Article 19.1.

²⁸ Article 20.

²⁹ Article 27-48.

³⁰ Article 25.1 (d).

³¹ OJ L 52 of 25/02/2011, p. 34.

³² OJ L 52 of 25/02/2011, p. 47.

There are also other measures of a unilateral character which aim to support circular migration. In particular, as the citizens of a country with which Poland cooperates within the Mobility Partnerships, Georgian Citizens can take up temporary employment in Poland without a work permit. Germany allows Georgian citizens who have legal residence permits in Germany to leave Germany for longer periods than the usual six months without losing their residence titles.

Georgia has concluded bilateral agreements on visa-free travel with several third countries.³³ While visa-free travel can help the mobility of Georgian citizens in general, the effects of these agreements on circular migration are rather limited. They provide for visa-free regimes for up to 90 days, as a rule, whereas, the Georgian citizens need to obtain labour visas and work permits for performing labour activities in these countries.

Conclusion

Generally, the Georgian legislative framework in the field of migration is extremely liberal. With regard to mobility and employment there are no or minimal limitations. Therefore, notwithstanding the absence of the definition of “circular migration”, there are several provisions which support repetitive back and forth mobility.

³³For example, with Ukraine, Armenia, Turkey, Kazakhstan, Azerbaijan, etc.

Circular Migration in Georgia

IRINA BADURASHVILI

Socio-Political Module

Circular migration of population in the most simple way be identified as a "... process of leaving and then returning to one's place of origin" (Newland, 2009, p.6). As experts note, this process is not new, but "... it is newly on the policy agenda of governments" (Newland, 2009, p.6), as it causes remarkable challenges for both donor's and destination's countries. This concerns Georgia as well. Emigration is a new phenomenon for Georgia. It first manifested itself at the beginning of 1990s by the large-scale emigration flows for permanent residence in other countries triggered by war and economic crisis in Georgia. Emigration patterns later transformed into temporary migration flows of working age population that left Georgia to have higher earnings abroad.

Hence, as a typical post-Soviet country Georgia was seriously affected by out-migration after its independence in 1991. The last 2002 population census in Georgia registered a drop of some 20 percent compared to the population registered in the 1989 census (State Department for Statistics of Georgia, 2003).

Main directions of circular migration in Georgia

When the Soviet Union collapsed, the creation of new international borders changed the situation radically and many people who belonged to minorities or suffered from economic hardships felt trapped inside the new independent countries and were eager to get out (Tishkov et al., 2005). After permanent migration, which was particularly complicated in Georgia due to territorial conflicts at the beginning of the 1990s, the new pattern of temporary labour migration emerged in the late 1990s, both to Russia and to the West. The visa free travel zone, with so called "transparent" borders at the territory of the former Soviet Union, as well as cheap transportation costs enabled temporary and circular migration patterns to Russia even for the poorest inhabitants of Georgia.

In the opinion of experts, since the mid-1990s temporary labour migration has become a "nationwide strategy" in Georgia (CRRC, 2007, p.10). Due to limited employment opportunities people go abroad to earn money and support their families in Georgia. According to the results of the last available representative survey on migration¹ the number of migrants from Georgia currently abroad is estimated at 140,000 people; another 138,000 are estimated to be returnees in Georgia. Hence, between 7% and 8% of the current Georgian population has experienced some kind of migration, i.e., either they are absent migrants or they have migrated and returned (CRRC/ISET, 2010, p.9). Given the decreasing possibilities for permanent immigration to most developed countries, these temporary moves abroad, called by some "incomplete migration" (Okolski, 1997), are replacing traditional forms of migration. They will most likely be the dominant form of out-migration from Georgia in the near future since many developed countries increasingly need immigration.

The Russian Federation used to be the major country of destination for Georgian migrants. The ease of entry due to the lack of a visa regime (before 2000) as well as pre-existing linkages, historical and economic ties, geographical and cultural proximity and the knowledge of the Russian language made Russia an attractive place to go. Given Georgia's geopolitical orientation and its standoff with Russia, not to mention the introduction of the visa regime in 2000 and the armed conflict and border closure in 2008 things changed. Russia lost some of its luster as the main destination for Georgian migrants. Survey results, conducted in Georgia among households, show that Western European countries, particularly Greece, now have a higher share of Georgian migrants than Russia (CRRC/ISET, 2010, p.1). Other studies also confirm this: according to OECD data, the stock of Georgian labour in Greece has constantly increased during the last ten years and had multiplied almost tenfold by 2009 with 25,631 Georgians in Greece².

¹Survey of up to 1500 households of three categories of households (households with no migrants, households with currently absent migrants and households with returned migrants) conducted by CRRC at the end of 2008.

² International Migration Database OECD, available at: <http://stats.oecd.org/Index.aspx?DataSetCode=MIG>

Meanwhile, Turkey has become important for temporary labour migration since Georgia's independence from the Soviet Union due to easy travel arrangements. And after the abolition of Turkey's visa requirements for Georgian citizens in 2006 and the closure of borders with the Russian Federation in 2008, Turkey became the major destination for Georgians (IOM, 2008, p.12).

A specific feature of Georgian labour migration is that it is largely illegal. Numerous attempts to develop a labour migration law in Georgia have failed for various reasons. Cooperation with different countries aimed at regulating labour migration has also been unsuccessful; for the moment Georgia has not signed bilateral labour migration agreements with foreign countries regulating the labour migration flows of Georgian citizens abroad. Accordingly, Georgian migrants usually rely on unofficial, and often illegal, migration industry. That is why Georgian labour migration is rather expensive. Georgian migrants use different methods to reach a host country and find a job there. Most of them are unable to get official work permits and work mainly in the "black" labour market (IOM, 2000; Badurashvili, 2005; People's Harmonious Development Society and TASO Foundation, 2010). As a result, there are no legal mechanisms to protect Georgian labour migrants when their rights are violated.

Policy framework and the social forces shaping circular migration in Georgia

In 2007 by the request of the Georgian Government the International Organization for Migration (IOM) conducted a comprehensive assessment of migration management in Georgia, which found that migration management policy in Georgia needed to be strengthened, as "...the current migration realities and trends are at times not adequately covered by the existing legislation of Georgia...and... the legal provisions need to be defined in a clearer manner, with an enhanced orientation towards EU requirements certainly being advisable. These issues call for strong leadership and comprehensive policies, supported by appropriate legislation and by-laws, an effective, trained and equipped migration management administration, as well as efficient practices" (IOM, 2007, p. 5).

Later experts stated that Georgia currently has "...neither a migration policy nor legislation to regulate the inward and outward movement of citizens despite the importance of migration for the country and the national economy" (CIPDD, 2009, p. 3). In the opinion of some experts, "...Georgia displayed patterns of inertia until late 2009 and complied only selectively with the migration-related ENP³-rules ... As a result ... the European Commission bluntly expressed its dissatisfaction with the Georgian migration policy in its progress report of 2008 criticizing the lack of a written policy document and the "extremely liberal nature" of the unwritten migration policy" (Ademmer, 2011, p.12).

In 2009, Georgia, the European Commission and 16 EU Member States moved to the implementation phase of the Mobility Partnership (MP), which encourages circular migration. As a result, the Georgian government expressed its intention of stimulating circular migration: "Georgia's main priority is facilitation of legal labour movement including agreement on labour and circular migration opportunities" (Office of the State Minister of Georgia on European and Euro-Atlantic Integration, 2010, p. 39).

However, currently there are still no effective mechanisms in Georgia to support legal labour migration. While bilateral agreements for labour migrants would be beneficial for all parties, the Georgian government has been reluctant to establish them even with the top destination countries of Georgian migrants such as Greece, Turkey, Ukraine, Italy, Germany and Russia. And it should be noted that agreements with the latter are not expected anytime soon, as the Georgian government has refused to have any official contact with the Russian government since the armed conflict in 2008.

At the same time, Georgia may benefit from Mobility Partnership, e.g. through the models of bilateral agreements on circular migration used by some of the EU Member States (MS) such as Bulgaria

³ENP stands for the European Neighborhood Policy.

and Romania. This is the case as, at the moment, the local labour market is unable to absorb all job seekers in Georgia, especially all university graduates, and temporary labour mobility arrangements may contribute to easing pressure on domestic labour market. On the other hand, the old MS, in particular those with experience as host countries for labour immigration, may provide models of good practice. France was the first EU Member State that offered to Georgia the conclusion of a bilateral agreement on circular migration. The agreement would provide possible employment for 500-600 persons per year under a short-term scheme. However, as an expert from the International Labour Organization noted, the signing of the agreement that was planned for October, 2010, has still not taken place because the Georgian side, in his opinion, is not yet ready for its signing and implementation.

The main obstacle for effective improvements in the fields of circular migration from Georgia is, in the opinion of experts, that the government follows its liberal economic policy. Until recently it did not consider any management of labour market in Georgia necessary, leaving the market to regulate itself. This was an issue of concern for some international partners, who over a long period tried to achieve a mutual understanding with policy-makers in Georgia concerning the state's role in labour-market management and for the facilitation of circular labour migration in the context of the increased labour mobility of citizens of Georgia to the European Union Member States and other destination countries.

Finally, at the beginning of July 2012 Georgia introduced a new post of the State Minister of Employment that would have "an efficient" staff of 20-25 people to tackle unemployment-related problems in Georgia (Civil.ge. Daily news online, 03.07.2012). Since 25 July 2012 the registration of job seekers and the creation of databases on all the unemployed has started. With this purpose employment agents visit all households in Georgia and fill a special questionnaire on each unemployed person (News.ge, 10.07.2012,). It is not clear yet how the new system of state employment services will operate. Nor is it clear whether this new governmental structure will consider circular migration as an opportunity to improve the situation on the domestic labour market. For the moment the government links these new activities to the necessity to define the extent of unemployment in Georgia and has officially announced its plans to provide a state-sponsored health insurance policy for all unemployed persons (News.ge, 10.07.2012,). Currently Georgia has no state employment agencies, no benefits for the unemployed, and no regular information on Georgian labour market supply and demand. Given these conditions, taking any effective measures for the facilitation of circular migration for Georgians would seem to be premature. .

At the same time there is a legal practice for sending Georgians for work abroad through intermediate private employment agencies. Private employment agencies and individuals are currently the only suppliers of job matching services on the Georgian labour market and have no competition from public employment service as the latter was dissolved in 2006. At present no legislation regulating private employment agencies and labour migration exist. This leads to shadow (or "black") labour market. Due to the lack of bilateral agreements between Georgia and other countries there are limited opportunities for Georgians to go legally abroad for work. So companies and individuals dealing with organizing trips abroad profit a lot from these activities, as many people in Georgia are ready to pay for the arrangement of trip abroad, to the West. According to information available from the mass-media and informal contacts, arranging a trip costs from \$1,500 to \$5,000 depending on the destination country. Most private agencies do not identify themselves as private employment agencies. The International Labour Organization (2007) conducted a special study on employment agencies in Georgia in 2007 and concluded that officially no private employment agency exists apart from vacancies published online. Few foreign companies employ Georgian citizens or implement cultural or educational programs abroad (ILO, 2007, p.11). The situation in Georgia has not changed since then. Consequently it is impossible to find out which private organization or individual person carries out job matching activities in Georgia. The only company freely advertising services on employment abroad, based on our research, is a Georgian-American company KMS-Georgia, but it operates on a very limited scale and facilitates employment abroad for 20-25 individuals a year on average (Tsereteli, 2012).

Policy Recommendations

In order to facilitate circular migration, the Georgian government should organise pre-migration assistance services and take leadership in creating special services that will improve the collection and dissemination of information on legal migration routes. This might include the creation of support centres that would gather information on migration programmes and opportunities in destination countries. Basic language training could also be provided by these centres, as the significant language barriers that exist for many Georgians abroad seem likely to prevent migrants from utilising their skills and education effectively.

The Georgian government promises to create more jobs in Georgia in the near future combined with on-going economic development. However, it will necessarily lead to an increase in employment as the experience of the recent years in Georgia shows. In our opinion national policies still do not adequately address the issues of labour migration and do not consider circular migration opportunities as one of the possible solutions for improving the situation on the local labour market. Moreover, although the Georgian government tries to promote the return of Georgian nationals, the opening of the Georgian border for low skilled and cheap labour from South-Asia and Africa has created competition for return migrants and has ignored local labour market specifics in Georgia. For employed persons there are no legal provisions or institutions for verifying whether the employment of an alien is allowed *vis-à-vis* the availability of the local work-force. Similarly for self-employed persons there is no institution and no legal provisions in place to carry out the “economic benefits test” to verify the economic viability and interest of Georgia in any particular small or medium enterprise venture.

In fact, even today, there is neither a single government agency in Georgia coordinating migration management. Nor, alternatively, is there clear “terms of reference” for the division of tasks between the existing agencies (there are at least 8 ministers dealing with the migration and management in various competencies). The State Commission on Migration created, in 2010, is an advisory body of the Georgian government, and deals with both immigration and emigration policies. However, at present it does not have enough human and financial capacity to play this role. The Commission also coordinates the implementation of the visa facilitation agreement and readmission agreement with the EU, signed in January 2011 (in force since March 2011). The readmission agreement defines clear responsibilities for both Georgia and EU countries concerning the prevention of irregular migration and the readmission procedures for Georgian citizens. At the same time, the visa facilitation agreement simplifies the procedure of obtaining visa for some categories of Georgian citizens, such as students, researchers etc. (Zurabishvili, 2010).

It must be noted that up to now the focus of the Mobility Partnership (MP) implementation in Georgia still lays on the readmission and reintegration of returnees in Georgia and there is no progress in facilitating circular migration.

In order to facilitate the circular migration of Georgian citizens the gradual extension of visa liberalization and other activities under the MP should be activated. The conclusion of labour and social security agreements should aim to contribute to the sustainable return of labor migrants.

Currently Georgia still does not have a written migration policy document. For the moment, there is a working group on “migration strategy” under the State Migration Commission. According to the information provided in April 2012 by an expert from the IOM Mission to Georgia, the final draft version will be available soon. It will then be shared with the international community and civil society for comment, before being sent to the government for approval.

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CHAPTER 5

Return and Readmission

**Return and Readmission:
the Case of Armenia**

RUBEN YEGANYAN

Demographic and Economic Module

There is, for the last five years, virtually no reliable statistical and research data available in Armenia on emigrants returning to Armenia: much as in the case of other migration processes. The numbers and structure of returning migrants, the reasons and the nature of their return, and information about how well they reintegrate in Armenia are all obscure.

To get a general idea about these processes and phenomena one has to resort to the somewhat outdated information from 2002-2007. Such an approach can be justified, we believe, because these data have not become completely irrelevant. In other words, there are no reasons for believing that besides quantitative changes in migration in Armenia qualitative changes have also taken place.

According to the data of complex sample migration survey in 2007¹, as of the time of survey (October 2007) 86,400 nationals returned to Armenia from abroad, 2002-2007. This is almost 3% of the total population of the country, and about 29% of all emigrants over the same period.

The distribution of this group by year of arrival and priority of return is as follows.

Table 1. Distribution of migrants who returned to Armenia, 2002-2007, by year of return and by priority of return².

Year	Number of returned migrants (thousand people)	Including by priority of return (%)		
		First	Second	Third and more
2002	2,6	37.5	62.5	-
2003	10,5	37.5	62.5	-
2004	9,4	20.7	69.0	10.3
2005	14,7	35.6	57.8	6.6
2006	25,7	11.4	72.2	16.4
2007	23,5	5.6	63.9	30.6
Total	86.4	18.9	65.7	26.5

As can be seen from table 1, over 80% of return migrants had made more than one migration trip within the given period. Most of them were, likely, short-term migrants (trip duration was less than one year), most probably seasonal labor migrants: this is confirmed by the fact that for fewer than 6 years over one quarter of the returnees managed to emigrate three times and more.

The accuracy of this statement is indirectly confirmed by the fact that over 80% of return migrants returned from the Russian Federation and over 5% were from other CIS countries. Those who returned from European countries and the USA accounted for only about 5%, and the share of those from all other countries combined was even smaller, under 4%.

This fact can also be confirmed to some extent by the following data of the survey referenced above:

- ✚ two of every three returnees were male,
- ✚ almost three out of four returnees were of the most active employable age (20-54 years old),
- ✚ while abroad, 54% were employed, but more than half of these were employed for less than 12 months,
- ✚ almost six out of ten migrants employed abroad, who returned home, were engaged in construction, i.e. a typically seasonal sector.

According to the research data, important reasons which encourage emigrants to return home are: they are homesick and miss their families; there are family circumstances, over one-fifth of

¹ Report on sample survey on external and internal migration in the Republic of Armenia. HCC PA, UNFPA, Yerevan, 2007, p. 40.

² Ibid, p. 53.

respondents listed each of these reasons (a total of 45.4%); as well as what might broadly be called employment reasons: 17.9% achieved the purpose of their trip/completed their work; 10.3% had low level of income/wages, and 4.2% had no job. These account for a total of one third of respondents.

Unfortunately, the research program did not include a tool that would identify those who were forced to return because of deportation or administrative expulsion. 2.2% of returnees indicated that the reason for their return was “pressure of the public/legal system”. This only confirms the fact that the number of forced returning migrants did not exceed this threshold.

Our attempts to get at least somewhat complete and accurate information from such sources as the RA Ministry of Interior, the RA police, the RA Population Registry, unfortunately, were also unsuccessful. At least, we did not find information on the public web-sites of these authorities.

This is despite the fact that since early 2002 the Republic of Armenia has signed readmission agreements with 11 countries: Latvia, Denmark, Lithuania, Switzerland, Germany, Bulgaria, Sweden, Benelux countries, Norway, Czech Republic and the Russian Federation.

No organized data on readmission processes could be found at the State Migration Service of Armenia either. The only information offered to us by the employees of this authority was correspondence between the competent public authorities of Norway, Sweden, Switzerland, and the Russian Federation, on the one hand, and Armenia on the other hand. This correspondence dated to 2011-2012 and regarded the establishment of citizenship for a limited number of alleged Armenian nationals, and even fewer nationals, who were, in fact, subject to readmission.

There are two non-governmental organizations which are involved in the implementation of the assistance programs for voluntary return to Armenia.

One of them is a Czech non-governmental organization “People in need”. In 2009-2012 it implemented the project “Reinforcement of Management of Migratory Flows in Armenia”. For the three years when this project was running, 2,633 persons benefited from some kind of assistance, out of which 1,460 persons were migrants returned from the Russian Federation, Ukraine, Moldova, the Czech Republic and Belgium.

1,090 persons benefited from advisory assistance in the framework of the program: 542 were returned migrants and 548 were potential migrants. There was also a hotline in place, through which 1,066 phone calls were answered, including 625 calls from potential migrants and 441 calls from returned migrants.

Thirty-two re-training courses were organized jointly with the agency “State Employment Service of Armenia”, in which 283 persons took part, and 110 got a job.

Small grants were provided to assist returned migrants in their reintegration. Grants were offered with the help of regional subdivisions of the agency “State Employment Service of Armenia”. In order to enhance the efficiency of this part of the program, there was a preliminary business training for grant seekers. Of 159 persons who underwent this training, 70 prepared and presented their own business projects, 27 of whom received financing. As a result of the implementation of these projects, 110 new jobs were created.

The second organization engaging in these kinds of activities is “Caritas Armenia”.

Beginning with 2006 it implemented several programs jointly with some European Union countries, which aimed at the prevention of illegal migration and at the reintegration of emigrants who returned voluntarily.

Thus, since 2006 the “Stable reintegration following voluntary return” program has been in place. This program financed by the Belgian government and by the European Union, has benefitted 163 families with efficient assistance for reintegration in Armenia, with 273 members.

Another program of “Caritas Armenia” was “Migration and Development”. This program started in 2010 and was financed by the Government of Lichtenstein and by “Caritas Austria”. Assistance was granted to 198 members of 83 families in the framework of this program.

Currently, the program “Returnees from Europe” is in the course of implementation. This program financed by the European Union was launched in 2008. Partners of “Caritas Armenia” here are “Caritas Germany” and “Caritas Netherlands”. The number of people who benefited from assistance under this program so far is small: just 10 persons.

Finally, the last joint program of the organization “Caritas Armenia” implemented in 2008-2009, jointly with “Caritas Austria” in terms of migration was “Network of European organizations supporting reintegration”. It was also financed by the European Union. Four families including nine family members benefited from support under this program.

In conclusion, we would like to note that though there already exist legal mechanisms for deportation and readmission, these tools have been little used since Armenia regained its independence.

**The Republic of Armenia's Legal Framework
for Readmission, Return and Reintegration**

PETROS AGHABABYAN

Legal Module

1. Relevant terms

Return: There is no legal definition of “return” in RA legislation. Nevertheless, the term is widely used in RA laws, decisions of the RA government, the RA Prime Minister’s decisions, and departmental normative acts. For example, the Constitution of the Republic of Armenia¹ declares that every citizen and everyone legally residing in the Republic of Armenia has the right to return to the Republic (Art. 25). According to Article 37.1 of the RA Law “On Consular Service”² the head of the consular post is responsible for issuing the return certificate to RA citizens, people with refugee status granted by the Republic of Armenia, and stateless people with the right to reside in the Republic of Armenia.

Voluntary return: The definition of this term is given in the RA Law “On Refugees and Asylum”.³ According to Article 4 of this law voluntary return is the return of an asylum seeker or a refugee to his/her country of citizenship or country of permanent residence, which is implemented with the assistance of the designated state body of the RA Government, i.e. the State Migration Service.

Assisted (voluntary) return: Assisted (voluntary) return is a question of facilitating the issuance of necessary travel documents and visas to enter the country of citizenship or permanent residence to persons who submitted applications for voluntary repatriation (asylum seekers and refugees). It also covers possible third, transit countries. The definition of assisted (voluntary) return is given in the Decision of the Government of the Republic of Armenia No. 48-N⁴ which was adopted 21.01.2010, and which entered into force 13.02.2010.

Return certificate: In accordance with the Decision of the RA Government No. 297-N⁵ of 24 March, 2011 “On Approving the description of the return certificate of the Republic of Armenia and order of providing the return certificate ” the certificate of return to the Republic of Armenia is a travel document, which enables various persons to return quickly to the RA, crossing borders, in the case of a lack of legal documents. These various persons include the citizen of the Republic of Armenia, individuals recognized as refugees or those who have sought asylum in the Republic of Armenia and people having the right to reside in the Republic of Armenia. (Point 1 of Annex 2 approved by decision). People illegally staying abroad and having no legal documents are also provided with return certificates in order to ensure their return to the Republic of Armenia. This is based on the agreement on the readmission of persons staying without authorization concluded with corresponding countries (point 4).

The Decision of the Government of the Republic of Armenia No. 156-N⁶ “On the recognition of the Travel Document of the International Criminal Police Organization” (INTERPOL) states that the travel document (electronic passport) of INTERPOL is recognized. This document allows individuals to cross the state borders into Armenia. Those individuals granted with such passports are released from the obligation to get an entry visa.

¹ Entered into force 13 July 1995; Amendments: 5 December 2005, see Official source: Official Journal of Armenia, 05.12.2005 (Special publication)

² Adopted 29.05.1996, entered into force on 15.06.1996. Official source: Journal of Parliament of Armenia 1996/11

³ Official Journal of Armenia, No. 2 (668), 14.01.2009. The Law on Refugees and Asylum was amended on 3 March 2011 and amendments came into force on 9 April 2011 (OJA No.5(821), 30.03.2011)

⁴ Decision of the Government on establishing the procedure for facilitating the issuance of necessary travel documents and visas to enter the country of citizenship or permanent residence, or possible third, transit countries to persons who submitted applications for voluntary repatriation (asylum seekers and refugees). Official source: Official Journal of Armenia (OJA) No. 5(739) 02.03.2010

⁵ Adopted 24.03.2011, entered into force on 16.04.2011, official source: Official Journal of Armenia 2011.04.06/19(822)

⁶ Adopted 16.02.2012, entered into force 01.03. 2012, Official sources: Official Journal of Armenia (OJA) No. 11(885), 29.02.2012

Expulsion: The forcible removal of a foreigner from the Republic of Armenia in case of absence of legal grounds for his or her stay or residence in the Republic of Armenia. This term is stipulated in the Law of the Republic of Armenia On Foreigners,⁷ point 3.

Collective expulsion: According to point 3 of the Law of the Republic of Armenia on Foreigners, collective expulsion is the expulsion of a group consisting of at least two foreigners. There is no decision adopted based on objective and reasonable considerations, which takes into account the personal data and special situation of each member of the group.

Readmission: The definition of readmission is given in readmission agreements concluded with a number of countries. In general readmission is a way of returning a foreigner illegally residing in the territory of the given country.

Readmission means the transfer of a RA citizen, illegally staying in a foreign country or a foreigner with a residence permit in the RA, back to the Republic of Armenia.⁸

2. Readmission and reintegration

Readmission issues

Readmission agreements have been concluded with 13 countries since 2003.⁹ These agreements regulate the issues related to the organization of the readmission of people residing illegally in the territories of the countries party to readmission agreements. The agreements define: the order and terms of the readmission of citizens of the states party to the agreement; third-country citizens or stateless people; the list of documents proving their identity and citizenship; time limits for transfer and acceptance; transit; content of the application on readmission or transit; protection of personal data; authorized bodies of the parties, etc.

Decision N1360¹⁰ of the RA Government, 22 September 2012, defines the processing order of applications by RA state authorized bodies received from foreign states in the framework of the agreements on the readmission of persons staying in an unauthorized fashion. According to this decision the State Migration Service of the RA Ministry of Territorial Administration was recognized as the authorized state body for accepting and processing/considering the applications (point 2).

The negotiations on the EU-Armenia readmission agreement were completed in 2012. It is envisaged that the agreement will stipulate the obligations of the EU and Armenia related to: readmission issues; readmission procedure for citizens as well as citizens of the third countries and stateless people; citizenship proving mechanisms regarding the citizens of third countries and stateless people; time limits; means of transportation; and expenditure.

An action plan proceeding from the EU-Armenia readmission agreement was approved by the RA Prime Minister's Decision 1228-A.¹¹ The action plan in question defines a number of activities for the implementation of the agreement: for example, establishing an interdepartmental working group; extra staff for the State Migration Service of the Ministry of Territorial Administration as the authorized body implementing the agreement; organization of staff training in dealing with readmission cases.

⁷ Adopted 25.12.2006, entered into force 03.02.2007, Official sources: Official Journal of Armenia No. 6 (530), 24.01.2007, Amended 02.02.2010 (effective 13.02.2010)

⁸ For example the Agreement with the Federal Republic of Germany, which entered into force 20 April 2008; the Agreement with the Kingdom of Norway, which entered into force 26 June 2010

⁹ Latvia (2003), Danish (2004), , Lithuania (2004), Swiss (2005), Germany (2008), Bulgaria (2008), Sweden (2009), Benelux (Belgium, Netherlands and Luxembourg 2010), Norway (2010), Czech (2011) and Russia (2011).

¹⁰ It was not published.

¹¹ Adopted on 12.12.2012, entered into force on 13.12.2012, was not published

Reintegration issue

Organization of the reintegration has been defined as an important issue in the “Concept for studying and prevention of irregular migration launching from the Republic of Armenia”.¹²

The third chapter of the Concept defines concrete steps for the organization of reintegration after return: employment programs directed/aimed at reintegration; consultation services for returned people; and negotiations regarding the organization of reintegration assistance to those returning to Armenia with the assistance of receiving countries.

The issues related to the return of the RA citizens from foreign countries, as well as support for their reintegration in their homeland are mentioned in part 8 of the Concept Paper on the Policy for the State Regulation of Migration in the Republic of Armenia.¹³ This paper provides for: the further improvement of internet based informational systems contributing to the return of the RA citizens; the organization of employment programs contributing to the reintegration of the returned citizens of the Republic of Armenia; as well as the introduction of new programs; the organization of advisory services for those returning to the Republic of Armenia; negotiations with the receiving countries on the organizing reintegration assistance to those returning to Armenia with the assistance of receiving countries.

2012-2016 National Action Plan for the Implementation of the Policy Concept for the State Regulation of Migration in the Republic of Armenia,¹⁴ was approved by RA Government Decision N1593, 10 November 2011. This agreement defines the main activities for: ensuring the implementation of the stipulated activities; responsible state bodies; time limits of implementation in years; as well as expected results.

In terms of reintegration the following are envisaged:

- An analysis of what kind of information is of interest to potential immigrants and in which institutions such information is available (point 8.1.1) – the State Migration Service is the implementing state body here, 2012;
- Discussions among relevant state and non-state bodies: NGOs dealing with immigration on issues relating to web information systems /point 8.1.2./; the State Migration Service; the National Security Service; the Ministry of Labour and Social Issues; the Ministry of Defense; the Ministry of Education and Science; the Ministry of Foreign Affairs; the Ministry of Diaspora. These include the implementing state bodies, 2012-2013,
- A clarification of the nature of integration and improvement approaches of various information systems, technical peculiarities for realization of such approaches (point 8.1.3.). Here the State Migration Service, the Ministry of Labour and Social Issues, the Ministry of Defense, the Ministry of Education and Science, the Ministry of Foreign Affairs, the Ministry of Diaspora are the implementing state bodies, 2012-2013,
- The establishment of the legal grounds for the integration and improvement of various info systems containing information relating to return of citizens living abroad (point 8.1.4.). The State Migration Service, the National Security Service, the Ministry of Labour and Social Issues, the RA Police, the Ministry of Foreign affairs are all implementing state bodies, 2013.

Reintegration assistance to RA citizens returning to Armenia from foreign states is one of the priority tasks stipulated in 2012 RA Action Plan. The Joint Declaration on the Mobility Partnership between the European Union and Armenia was signed 27 October, 2011 and the first program implemented in the framework of the declaration was directed to the solution of this issue. Seven EU countries (France, Belgium, Bulgaria, the Czech Republic, Germany, the Netherlands and Sweden)

¹² RA Government Protocol Decision N51 of 29 December 2011, adopted on 29.12.2012, was not published.

¹³ Approved by the RA Government Protocol Decision N51 dated 30 December, 2010

¹⁴ Approved by the RA Government Decision N1593-N dated 10 November, 2011

took part in implementation of another program: “Strengthening Armenia’s migration management capacities with a special focus on reintegration activities”. The program’s budget was 3 million EURO, and its duration three years. The French office for immigration and reintegration (OFII) has managed its implementation since October 2012. The program will be aimed at the most urgent needs,¹⁵ identified through different surveys, of the returnees.

3. Return from the Republic of Armenia

3.1 Return from the border

Entry of foreigners into the territory of the Republic of Armenia is not allowed if they have arrived at a crossing point of the RA state border: without a passport, a document substituting it or with an invalid passport; or if they have been refused an entry visa there; or if they have not obtained an entry authorization from the relevant border control body. These individuals have to be returned as soon as possible to their country of origin or to the country, from which they arrived, by the same carrier. the only exception is when they have arrived in Armenia seeking refugee status or a right to political asylum (Article 6, point 3).

An entry visa is refused to a foreigner and the entry into the Republic of Armenia is forbidden under the following conditions: the foreigner has been expelled from the territory of the Republic of Armenia; or the foreigner has been deprived of residence status and and three years have not elapsed since the entry into force of the decision on expulsion or deprivation of residence status (Article 8).

3.2 Voluntary departure

The foreigner must voluntarily leave the territory of the Republic of Armenia under the following conditions: the validity of his/her entry visa or residence permit has expired; the entry visa was considered as invalid; his/her application for residence status or on prolonging the validity of residence was rejected; or he/she was deprived of residence status. There is no time limit for voluntary departure. In accordance with Article 58 (point 2) of the Law on Refugees and Asylum there is a time limit only for refugees not granted asylum. A refugee not granted asylum must leave the territory of the Republic of Armenia voluntarily or involuntarily within six month of the final decision. If departure is not possible, the State Migration Service of Armenia shall grant asylum to the refugee and RA Police shall issue a Convention Travel Document.

3.3 Forced Return

The following mechanism on the expulsion of foreigners from the RA is envisaged by RA legislation. If a foreigner has failed to voluntarily leave the territory of the Republic of Armenia, the RA Police institutes and files with a court an action on expulsion (Article 31). Based on the examination of the relevant case, the court takes a decision on expelling or refusing to expel the foreigner (Article 34). Said foreigner may appeal the decision in court. If any appeal against a decision on expulsion is successful, the foreigner’s expulsion from the Republic of Armenia shall be suspended (Article 35).

¹⁵ 2 pieces of research recently conducted in Armenia have become a basis for this:

Research on potential and returning migrants in Armenia, conducted by the Caucasus Research Resource Centers program with financial assistance from the European Training Foundation;

Research on the Cross-Regional Information System (CRIS) on the Reintegration of Migrants in their Countries of Origin, by the Swedish Development and Cooperation office and the EUI-European University Institute, with the financial assistance of the “Advanced Social Technologies” NGO.

The RA Police implements the expulsion decision. If the foreigner cannot afford to cover expulsion costs, these are covered by the RA state budget. Cases when expulsion is prohibited are also laid down.

If the return of a foreigner to the country of origin is impossible within 90 days, the RA Police shall issue a temporary permit to the foreigner until the departure of the foreigner from the Republic of Armenia. However, the temporary term shall not exceed one year (Article 37, point 5).

The expulsion of a foreigner residing in Armenia is prohibited: if he/she is a minor, and his/her parents legally reside in Armenia; if he/she has a minor under his/her care; or if he/she is above 80 year of age (Article 32, point 2).

The readmission agreements do not regulate issues related to the legal status of third-country nationals readmitted by Armenia.

3.4 Detention

If it is impossible to return a foreigner to a country of origin or to a country where he or she came from, foreigners may be detained in a transit area or in another place, in a special facility provided for that purpose (Article 37, point 1). This is applied to: foreigners who have arrived at a crossing point of the state border of the Republic of Armenia without a passport, with an invalid passport; foreigners who have been refused an entry visa at a crossing point of the state border of the Republic Armenia; and foreigners who have not obtained an entry authorization from the body carrying out border control.

A foreigner may be arrested and detained in special facilities¹⁶ if there are sufficient grounds to suspect that he or she will abscond. The foreigner is then kept there until the case is examined in the court or till the expulsion takes place and has legal effect. An arrested foreigner may be detained in a special facility till the decision of the court, rendered as a result of the examination of the case on expulsion takes legal effect, but for no longer than 90 days. Arrested asylum seeker may be kept in special facilities for up to 72 hours, after which he/she is moved to the temporary reception center, envisaged for asylum-seekers.¹⁷ If the court decided to deny the expulsion, the RA Police is obliged to provide temporary resident status (Article 34, point 3).

3.5 Access to asylum procedures

Every foreigner has access to asylum procedures. If a foreigner applies for asylum he/she cannot be expelled from RA territory prior to the final decision on his/her asylum application. The foreign citizen or stateless person cannot be expelled, returned or extradited to another country where there are substantial grounds for believing that he/she would be in danger of being subject to inhuman or degrading treatment or punishment including torture (Article 9, points 2 and 3, RA Law on Refugees and Asylum).

The RA Law “On Refugees and Asylum”¹⁸ regulates issues related to voluntary return and non-expulsion (*non-refoulement*) of rejected asylum-seekers to their country of origin.

Article 9 of the RA Law “On Refugees and Asylum” defines the *non-refoulement* principle.

¹⁶ Special accommodation for foreigners at border crossing points and transit areas in order to establish their identity. See Decision of the Government of the Republic of Armenia No. 127-N from 7 February 2008 on the operation and conditions in special facilities for the detention of foreigners at the border crossing points and in transit areas.

¹⁷ See RA Law “On Refugees and Asylum” chapter 1, point 2

¹⁸ Official Journal of Armenia, No. 2(668), 14.01.2009. The Law on Refugees and Asylum was amended on 3 March 2011 and amendments came into force on 9 April 2011 (OJA No. 18 (821), 30.03.2011)

Article 60 of the RA Law “On Refugees and Asylum” gives a detailed set of procedures for the voluntary return of refugees and asylum seekers. The RA Ministry of Foreign Affairs, international organizations (e.g. UNHCR, IOM), as well as other NGOs also participate in the process of the voluntary return of refugees and asylum seekers to origin countries.

The Government of the Republic of Armenia decision No. 48-N defines the procedure for facilitating the issuance of necessary travel documents and visas to enter the country of citizenship or permanent residence, or possible third, transit countries to persons who submitted applications for voluntary repatriation (asylum seekers and refugees).

According to the Order N 05-N¹⁹ of the RA Minister of Territorial Administration dated 6 May, 2010 the following documents were approved:

- A sample application form for assistance in obtaining the travel documents and visas necessary for entering the country of citizenship or permanent residence or possible third, transit countries to persons who submitted applications for voluntary repatriation (asylum seekers and refugees)
- A sample written consent form regarding the voluntary repatriation of the asylum seekers or refugees to the country of citizenship or permanent residence.

¹⁹ Adopted on 06.05.2010, entered into force on 11.06.2010, Official source: Bulletin of the RA departmental acts 2010.06/13(365)

**Readmission, Return
and Reintegration in Armenia**

HAYKANUSH CHOBANYAN

Socio-Political Module

In the beginning of the 2000s, when suggestions related to the conclusion of readmission agreements were emanating from the European countries, Armenia was very cautious in this regard. There was an opinion that the signing of readmission agreements would cause mass returns of Armenian citizens irregularly staying in the foreign countries to Armenia. At the same time as a result of active discussions, and view of the real on the ground situation, it was stated that return of Armenian citizens was de facto being implemented irrespective of the availability or absence of such agreements. Hence, by concluding these agreements, cooperation in this field obtains a legal basis, the authorized bodies and a clearly defined list of requested documents. Furthermore, time frames from both sides are defined, as are issues with regard to readmission of third country nationals, etc.

Afterwards, Armenia expressed its readiness to conclude readmission agreements as one of the effective tools in order to combat irregular migration, and since 2003 it has been actively involved in the process. On the other hand, the conclusion of such agreements reaffirms the readiness of Armenia to craft civilized solutions to this important and subtle issue of irregular migration. Moreover, it is an inalienable right of any citizen to return to his or her own country of origin, and only the technical problems are solved through readmission agreements.

Concluding inter-governmental agreements with the respective countries against illegal migration, including provisions on the return, receipt, and transit of illegal RA citizens and third country nationals between the contracting parties (readmission treaties) was formulated as one of the key measures required to achieve the following priority of the state regulation of migration in the Republic of Armenia - “*Preventing the emergence of illegal migration from the Republic of Armenia and supporting the return and reintegration in the Republic of Armenia of Armenian citizens illegally staying abroad*” (Concept Paper of the Armenian Government on Migration Regulation in Armenia, 2004, p. 4).

Up to now, the Government of the Republic of Armenia has signed 11 agreements with 13 countries¹, 12 of which are European states, and one CIS country: the Kingdom of Denmark, the Republic of Lithuania, Latvia, Sweden, Switzerland, the Federal Republic of Germany, and the Benelux countries, Bulgaria, Norway, the Czech Republic and the Russian Federation².

Negotiations on readmission agreements with 5 countries are in process: Estonia, Cyprus, Romania, Ukraine and the Republic of Moldova.

Negotiations with the EU have been concluded. The readmission agreement with the EU was pre-signed on October 18th, 2012 and will be signed during the year 2013.

State policy-makers and implementers

The Ministry of Foreign Affairs and the State Migration Service of the Ministry of Territorial Administration of Armenia are the bodies responsible for readmission policy.

In the renewed Concept Paper of the Armenian Government on Migration Regulation in Armenia the 7th priority goal concerns the “Prevention of irregular migration originating in the RA, improvement of the legislative framework relating to irregular migration” (Concept Paper, 2010, p.14). In order to achieve the mentioned policy goal, the “continuation of the process of negotiation and conclusion of agreements with states interested in the return of RA nationals that reside in foreign

¹ Benelux countries (Belgium, Netherlands, and Luxembourg) are counted as one party in the Readmission Agreement with Armenia.

² Copies of the readmission agreements signed by the Armenian Government are available at the webpage of the State Migration Service of Armenia. Bilateral Agreements: http://www.smsmta.am/?menu_id=15. Accessed January 31, 2013.

countries without permission to stay” is stipulated in the Action Plan for the Implementation of the Concept Paper in 2012-2016 (National Action Plan, 2011, p.26).

Aside from the above, procedures on the implementation of readmission agreements are being adopted according to RA legislation. The following Governmental institutions are responsible for the implementation of the readmission agreements in the Republic of Armenia³:

The State Migration Service (SMS) of the Ministry of Territorial Administration of Armenia is the main body responsible for the implementation of readmission agreements. The SMS drafts texts of readmission agreements, and redacts conclusions and comments. The SMS receives requests regarding readmission of the citizens of the Republic of Armenia, foreigners residing without authorization on the territory of the requesting country, as well as transit applications for citizens of third countries via the territory of the Republic of Armenia. After receiving these applications/requests, they are sent to the Armenian Police within three days; in case of need, the SMS sends the application to the National Security Service and the Ministry of Foreign Affairs, which answers to the applications within 15 days. Based on the answers, received from the relevant bodies, the SMS prepares the answers to the applications and sends them to the applicants within 5 days.

The Police of Armenia answers the applications of the citizens of Republic of Armenia on readmission within 15 working days by affirming or rejecting the fact of the applicant’s citizenship of the Republic of Armenia.

The Ministry of Foreign Affairs of Armenia (Consular Department) provides return certificates (Laissez-Passer), and deals with readmission issues when cases are related to verification of the citizenship and identity of the persons through conducting face-to-face interviews.

The National Security Service of Armenia gives opinions regarding special cases, when there is a need.

In case of difficulties in proving the identity of an individual (for example, due to the absence of corresponding documents), upon the request of a foreign country, representatives of the Armenian authorized bodies are sent on secondment in order to conduct face-to-face interviews. Also, Armenian consular services abroad can be charged with interviewing the persons for determination of citizenship (Gov Decree, 2011, p. 3).

The State Migration Service is recognized as an authorized body for the implementation of the readmission agreement between the EU and Armenia. In order to implement the agreement, the RA Prime Ministerial decree N 1228-A of December 12th, 2012 was adopted, confirming the action plan derived from the “RA-EU readmission agreement”.

The list of measures ensuring the implementation of the RA-EU readmission agreement was also elaborated. At the time of entry into force of the Agreement, the following is expected:

- The project for the RA Governmental decree on the measures ensuring the implementation of the “RA-EU readmission agreement” should be elaborated;
- SMS should be connected to the informative network of the RA Police;
- The availability of data on migration conducted via airways from the BOMCA system should be provided;
- An interdepartmental working group should be established to discuss emerging problems and to carry out monitoring on fulfilment of tasks defined by the agreement;
- A study of the staff of bodies involved in readmission processes should be organized.

³ Government Decree N 1360-N on “Order on Examination of the Readmission Applications Received from Foreign Countries in the Framework of Readmission Agreements on Persons with Unauthorized Stay in Foreign Countries by the State Institutions of the Republic of Armenia” was adopted in September 22, 2011.

However, there are a number of challenges that Armenia faces during the implementation of readmission agreements:

- Armenian consular services are not represented in many countries. Also, some of them cover several countries at the same time, and have limited staff in order to conduct face-to-face interviews with persons for the purposes of the identification of citizenship in very short time frames. Particularly, the EU-Armenia readmission agreement defines a very short timetable for checking the citizenship.
- There are various information databases in Armenia that contain information on citizenship or residence status (Population Register, database of refugees, etc). However, they are not yet integrated, and additional recourses are needed to get the requested information on time.
- With the aim of preventing the recirculation of returnees, Armenia expressed a conviction that the mechanical return of people can't solve the issue of irregular migration if the return is not accompanied by further reintegration programmes.
- The lack of cooperation amongst the implementing partners (For example, people are often sent back from Sweden without informing the competent body on the Armenian side and without sending the readmission requests to check the citizenship. With Russia, information about an act of readmission is frequently delayed. The State Migration Service, responsible for the implementation of the readmission agreement with the Czech Republic, has never received any request from the Czech side thus far, which by no means implies that there are no irregular Armenian migrants living in the Czech Republic).
- Various responsible bodies are defined by different bilateral agreements (with the Czech Republic, the Russian Federation, Norway and Sweden, it is the State Migration Service of Armenia; with the Benelux countries, Bulgaria, Germany, it is the Ministry of Foreign Affairs of Armenia; while with Denmark, it is the Police Force of Armenia), which leads to a non-unified approach for the implementation of the agreements, as well as a lack of a common and centralized statistical database for readmission cases.
- With some bilateral readmission agreements, implementing protocols have been signed at the same time as the agreements. These protocols, in particular, define the responsibilities of various state bodies to respond to readmission claims within exact time-frames and thereby improve the effectiveness of implementation of the agreements. However, there are agreements that are signed without the implementation protocols, which bring about different interpretations during implementation.

Statistics on readmitted persons

With regard to the Statistics on readmitted persons, it should be mentioned that during 2011-2012 the SMS received a total of 75 readmission requests from Sweden, Norway, Switzerland and the Russian Federation. Amongst those, the holders of Armenian citizenship were approved in 53 cases, and 22 were rejected⁴.

Evaluation of return and re-integration programs in Armenia

Today, there are no targeted governmental programs on the reintegration of returning migrants in Armenia. However, there are specific projects on reintegration which are implemented by national, international and non-governmental organizations and which are mainly financed by the international organizations and by host countries. Some governmental agencies are involved in some of these projects; however, these projects are not sustainable. Systemization of the work of different

⁴ Internal data of the State Migration Service of Armenia on statistics on readmitted persons. Accessed January 31, 2013.

institutions is still in question. This affects not only the work of public institutions, but also the cooperation of the appropriate international and non-governmental organizations. These projects and their support packages can be provisionally divided into two categories: “broad” and “narrow”. The “narrow” package implies only consultative support and referencing for returning migrants (it is provided by the SMS, Migration Resource Centers under the State Employment Service Agency and by some NGOs). Apart from consultancy support, the “broad” package includes: certain mechanisms for financing income-generating activities (support for starting and existing businesses); requalification training; the education of children; medical support, etc. (implemented by the IOM, the “People in Need” NGO, the French-Armenian Development Foundation in Armenia, Armenian Caritas, etc.).⁵

The Joint Declaration on a Mobility Partnership (MP) between Armenia and ten EU Member States was signed in October 2011. The forthcoming first three-year project (with a budget of three million Euros) in the framework of the Mobility Partnership is entitled “***Strengthening Armenia's migration management capacities, with special focus on reintegration activities***”. It reaches its aims by increasing the capacities of competent authorities and civil society in Armenia: to actively support dignified sustainable return and reintegration; to address the challenges posed by irregular migration; and to facilitate opportunities for legal migration.

To summarize, the following conclusions can be drawn with regard to the assistance projects in Armenia:

- The projects are funded by the EU Return fund or by the individual EU countries.
- Projects involve limited categories of returnees, i.e. “voluntary”, “compulsory” and “forced” (these are mostly rejected asylum seekers and irregular migrants). The bulk of beneficiaries comprise returnees from the same countries.
- Different methods are used for organizing the activities of the appropriate entities (for example, the selection of a professional entity for all project components, and a legal contract with those entities). The working tools of the projects (e.g. needs assessment, statistical databases, etc.) for ensuring the effectiveness of the process and conducting analyses on different parameters also vary.
- Different types of support provided by reintegration projects (e.g. not all the projects have such components as educating children, social and psychological support and consultancy)
- Different levels of financing might not be sufficient for starting cost-effective businesses. Besides, returnees do not have their own funds to invest into businesses.
- In order to ensure the sustainable reintegration of returning migrants in Armenia, coordinated assistance should be provided to them. Otherwise, this deficiency can contribute to a situation where these people migrate from Armenia again.

⁵ More detail about return and reintegration in Armenia may be found in Chobanyan *H.* “**Return Migration and Reintegration Issues: Armenia**”, *CARIM-East Research Report 2013/03*. Available at: <http://www.carim-east.eu/media/CARIM-East-RR-2013-03.pdf>.

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Republic of Armenia-EU Readmission Agreement pre-signed on October 18, 2012.

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Joint Declaration on a Mobility Partnership between Armenia and EU Member States was signed in October 27, 2011.

**Azerbaijan: Readmission and
Interstate Agreements**

ARIF YUNUSOV

Demographic and Economic Module

Azerbaijani migrants' return and their subsequent reintegration into society is one of the most painful and acute issues facing Azerbaijan today. The scale of the problem is sufficiently large for a country like this. It is enough to cite the following data: from 1991 to 2006 over 44,000 citizens of Azerbaijan, having left the republic, officially applied for refugee status or attempted to become political emigrants in EU member states and the United States. Of course, the number of migrants who departed for the EU, US and other countries was, in fact, much larger, as by no means all applied for this kind of status. Many preferred to find a job and some lived illegally in their new homes.

By no means all these applications were approved. As a rule, no more than 5% of those who submitted documents got status approval. This is, for instance, true for Sweden that has lately become relatively popular among Azerbaijani citizens. From 1992 to 2007 over 5,000 Azerbaijani citizens emigrated to Sweden, 4,240 among them, i.e. 83%, submitted documents for the refugee status, but only 221 Azerbaijani migrants were granted this status (*Yunusov, p.148-149*).

One can see similar pattern in other countries. Another crucial issue was the fate of those who failed to obtain refugee status. Some were deported or forced to return home after several years abroad, and there were many of them. For instance, according to the Azerbaijani State Statistics Committee, between 2000 and 2011, 29,500 came to Azerbaijan for permanent residence, the overwhelming majority of them being former Azerbaijani citizens who had left the country in previous years (*Demographic, p.438, Table 7.2*).

Table. Number of those who arrived for permanent residence, thousand persons

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	TOTAL
From CIS countries	3540	2240	1051	2244	2028	1565	1956	1749	2781	2155	2166	2111	25586
Including from Russia	2710	1677	782	1656	1466	1158	1394	1269	2024	1580	1706	1655	19077
From other countries	821	334	206	256	379	448	276	205	816	137	62	70	4010
TOTAL	4361	2574	1257	2500	2407	2013	2232	1954	3597	2292	2228	2181	29596

Source: the State Statistics Committee of Azerbaijan

One can see from the table that the majority returned or came from the CIS countries, primarily Russia. However many migrants returned to the home country from Europe. There are even more who await the resolution of their case. By early 2007 the total number of Azerbaijani migrants, who were detained or who awaited the resolution of their case and who had illegally stayed in Germany for a number of years, reached almost 6,500. This even resulted in interstate tension: support for illegal Azerbaijani migrants costs German budget almost 40 million euro a year. That is why the German government turned to the Azerbaijani leadership asking for these migrants to be returned to their home country (*Germany; Azerbaijani migrants*).

However, the Azerbaijani authorities refused to sign an agreement on readmission, i.e. on the compulsory return of these illegal migrants to their home country, and their fate remains unresolved. Representatives of individual European countries and the European Union got back to this topic on numerous occasions. In April 2011 the then head of the State Migration Service Arzu Rahimov clearly indicated that though there were discussions about this issue, the Azerbaijani authorities: "have our own position, and agreements will be concluded with certain countries, when the time comes" (*Zarbaliev*).

Therefore, the position of the Azerbaijani leadership is clear: they do not intend to sign an agreement on readmission. At best, one can talk about bilateral agreements, but even in this respect nothing is straightforward. At different points of time Azerbaijan signed agreements with several CIS countries for the employment and social protection of its migrants working in those countries: Russia (19 May 2003), Ukraine (3 June 2004), Moldova (21 April 2005), Kazakhstan (24 May 2005) and Belarus (2 May 2007). Besides, Azerbaijan signed bilateral agreements with these and many other countries on visa regime facilitation.

However, all this is irrelevant from the standpoint of readmission, and the question of migrants' return to the home country and the resolution of problems there remain. Moreover, they often complicate interstate relations. In this respect Azerbaijani-Russian relations are typical enough.

The Russian authorities played the migration card on numerous occasions exerting pressure on post-Soviet neighbors. When during the second Chechen war, in 1999, Azerbaijan started supporting Chechen separatists, the Russian authorities toughened up the rules for Azerbaijani migrants. Mass raids took place in the open markets in Moscow and other cities and as a result only a month after the start of the second Chechen war up to 12,000 Azerbaijanis were deported from Moscow for "passport regime violation". The situation in other Russian regions was similar (*Yunusov, p.100-101*). Besides, Russian authorities put on hold financial transfers made by migrants to their families.

The Azerbaijani leadership realized the danger and ceased its support for Chechen separatists. In response, in early 2000, Russia met Azerbaijan halfway and stopped exerting pressure on Azerbaijani migrants.

However, the situation repeated itself in October 2006, when Azerbaijan refused to support Russia in its dispute with Georgia, which led to further problems in interstate relations. This time Azerbaijan, backed by the West, took a tougher line and refused to import Russian gas.

The Russian response to this refusal was immediate and was again related to migration: pressure was put on migrants. As a result, Azerbaijan faced an inflow of migrants who were deported or forced to leave Russia and return to their home country.

The Azerbaijani authorities understood that this flow could be large-scale and that it would be for Azerbaijan with the return of at least tens of thousands of migrants, who needed jobs and in some cases housing. In the meantime, the Azerbaijani authorities could not provide them with jobs and housing and, in fact, were not even going to deal with that problem. They were interested in settling the dispute with the Russian authorities as soon as possible, in order to allow migrants to go back as soon as possible.

That is why, after having understood the threat, the Azerbaijani authorities promptly reacted to the new migration rules in Russia: in December 2006 the decree of President I. Aliyev established a special state commission charged with resolving the problems of Azerbaijani migrants in Russia. This commission included representatives from the Ministry of Interior, the Ministry of National Security and other security institutions of the republic. The Azerbaijani authorities also established special operation centers in all Russian regions, where Azerbaijani migrants lived; these centers were charged with the examination and resolution of the problems of Azerbaijani citizens who sought assistance.

In addition to this, intensive negotiations with the Russian authorities were launched to resolve the problems that had caused tension in Azerbaijani-Russian relations. In the end Russia stopped exerting pressure on Azerbaijani migrants and, in May 2007, Russia introduced amendments to the law regulating the legal status of migrants, thus visibly relaxing the rules of residence and employment of foreign citizens. As a result, a year after the introduction of new migration rules, the situation changed and Azerbaijanis started returning to Russia.

After that all issues related to reintegration of periodically returning or deported Azerbaijani migrants were resolved not by the republic, which distanced themselves from this process, but by international organizations. These included the IOM and local non-governmental organizations. However, this assistance was sporadic and involved, at best, several dozen families.

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**Readmission, Return and Reintegration:
Legal Framework in the Republic of Azerbaijan**

ALOVSAT ALIYEV

Legal Module

1. Return to Azerbaijan and reintegration

Azerbaijan did not adopt any legal acts that would specifically deal with reintegration. In various normative acts one can only find some norms related to reintegration of certain groups of people. Thus, for instance, according to the Law “On combat against human trafficking”, social rehabilitation of human trafficking victims aims to encourage their integration into society and their return to normal life. It envisages measures aimed at providing legal assistance, educational opportunities, psychological, medical and professional rehabilitation, employment and housing¹. The Law “On the status of refugees and forced migrants (persons forced to move to the country)” creates conditions in which refugees can adapt to the local environment, undergo naturalization, learn the language and learn about their rights and obligations². As for immigrants, Azerbaijani legislation offers them an opportunity to study the Azerbaijani language, as well as the Constitution and laws of Azerbaijan³.

Azerbaijani citizens who used to permanently reside in Azerbaijan and stateless persons can be divided into the following groups depending on their status at the time of return:

- Persons who, without abandoning Azerbaijani citizenship, accepted citizenship of another state (who are persons with double citizenship at the moment). As far as these persons arrive in Azerbaijan with Azerbaijani identity documents the legislation does not set any norms regarding them⁴.
- Citizens of Azerbaijan who reside in the country of destination with the status of immigrants.
- Persons who used to be citizens of Azerbaijan, but abandoned Azerbaijani citizenship and failed to acquire the citizenship of another state (stateless persons). Persons who abandoned Azerbaijani citizenship, but for some reasons failed to acquire the citizenship of another state petition for recovery of Azerbaijani citizenship⁵. Petitions for recovery of the citizenship are addressed to the President of Azerbaijan and are submitted to the State Migration Service.
- Stateless persons who used to permanently reside in Azerbaijan and now permanently reside in another country. Legislation does not envisage any norms with regards to stateless persons who used to reside in Azerbaijan and now return to Azerbaijan. However, attitude to them is the same as to other stateless persons, i.e. attitude to citizens and to stateless persons who used to reside in Azerbaijan is different. Therefore, persons who used to be Azerbaijani citizens are entitled to the recovery of citizenship, while stateless persons who used to reside in Azerbaijan do not have such a right.

Legislation stipulates a procedure for return of Azerbaijani citizens and stateless persons permanently residing in the territory of Azerbaijan. The following persons can return to Azerbaijan on the basis of the special return certificate: an Azerbaijani citizen whose passport was lost in a foreign state, was stolen or became unfit for use, or whose passport validity period expired; an Azerbaijani citizen who did not reach

¹ Article 15 of the Law “On combat against human trafficking”. According to the Law “On ensuring rights and freedoms of persons in correction facilities”, medical evaluation is performed in order to identify physical and physiological disorders that might prevent their reintegration after their release. Moreover, release on parole of the persons who committed crimes is considered a crucial way to reintegrate them into society.

² Article 7 of the Law “On status of refugees and forced migrants (persons forced to move to the country)”.

³ Article 16 of the Law “On immigration”.

⁴ Unlike in the Republic of Georgia, in Azerbaijan persons who abandoned Azerbaijani citizenship, but did not acquire citizenship of another country, are not considered Azerbaijani citizens. According to the legislation of Georgia, if a person abandoned Georgian citizenship, but failed to enter the citizenship of another country, this person is considered a Georgian citizen.

⁵ According to article 15 of the Law “On citizenship of Republic of Azerbaijan”, a person who used to be the citizen of Azerbaijan or whose citizenship was terminated can be restored in Azerbaijani citizenship.

the age of 18 or who reached the age of 18 while in a foreign state; a stateless person permanently residing in Azerbaijan on legal grounds and a child who did not reach the age of 18 or reached the age of 18 in a foreign state and is returning to Azerbaijan with this stateless person⁶.

Legislation does not envisage any procedures with regards to persons deported from another country.

Azerbaijan has no agreements on readmission. However, it came to an agreement on cooperation with EU member states for the purpose of control and prevention of illegal immigration. Under this cooperation agreement Azerbaijan undertook an obligation to admit its citizens illegally residing in another country without additional procedures following the EU member state's request⁷. However, we do not see fulfillment of this obligation in practice.

Long-term talks of Azerbaijan with the EU member states on readmission agreements have not yet come to fruition. In fact, Azerbaijan evades such agreements. Failure to sign agreements on readmission results in failure to protect rights and freedoms of citizens, as well as deliberate failure to issue them return certificates or other identity documents. After signing agreements on readmission with the EU member states Azerbaijan will be obliged to admit its citizens illegally residing in an EU member state, as well as foreigners who used Azerbaijani territory for transit to an EU member state and stateless persons. Readmission agreements can be bilateral and multilateral. They usually contribute to facilitation of the visa regime with the EU member states.

All foreigners and stateless persons arriving in Azerbaijan enjoy equal rights and obligations. As it was said before, as far as Azerbaijan has not yet signed any readmission agreements, its legislation does not establish norms regarding treatment of citizens of the third countries.

2. Return from the Republic of Azerbaijan

2.1 Voluntary return

Azerbaijani legislation does not contain any norms envisaging voluntary return procedure, as well as assistance in voluntary return of foreigners and stateless persons residing in Azerbaijan to the country of origin. That is why Azerbaijan does not implement any programs of assistance in voluntary return of foreigners and stateless persons to the country of origin. However, in the framework of its migration management efforts IOM implements a program to assist foreigners in voluntary return.

2.2 Forced return

2.2.1 Denied entry and return from the state border

Foreigners and stateless persons can enter and depart from Azerbaijan according to procedure stipulated by law, provided that they proceed through special checkpoints on the basis of passports and permits drawn up in accordance with international treaties, i.e. visas. Foreigners who obtained temporary or permanent permit to reside in Azerbaijan can enter and depart from the country on the basis of passports (or other border crossing documents) and certificates permitting temporary or permanent residence in the country⁸.

⁶ Paragraph 1 of the Regulation on procedure of issuing a Certificate of return to the Republic of Azerbaijan.

⁷ Agreement on cooperation and partnership between the EU and Azerbaijan was signed on 22 April 1996 and entered into force on 22 April 1999.

⁸ Article 12 of the Law "On departure from the country, entry to the country, and passports".

According to article 15 of the Law “On departure from the country, entry to the country and passports”, foreigners crossing Azerbaijani border in violation of legal requirements, i.e. without a passport / visa or with invalid passport and other documents, are sent back. In practice, if this fact is established at the border, border officer does not allow this person to enter the country. Legislation does not establish a procedure for appeal in such a case. If a person refers to the state border service with a purpose of entering Azerbaijan through the third country and does not have permit to enter Azerbaijan, and his or her entry is inadvisable, then this person is not allowed into Azerbaijan and is sent back to the third country. If a person has a permit to reside in Azerbaijan, illegally crosses the border of a neighboring country and is sent back to Azerbaijan, this does not serve as a basis for his or her return to the country of origin. Such a person who claims to have lost the passport and documents can be admitted until the investigation by the Ministry of Interior and is placed in a facility (as a rule, this is a center of the State Migration Service for placement of illegal migrants) chosen by the executive body of the nearest district⁹.

2.2.2 Illegal crossing of the state border

Crossing of the guarded state border of Azerbaijan without necessary documents or circumventing the checkpoint at the state border is penalized with a fine from two hundred to five hundred manats or prison term from two to five years¹⁰. According to Azerbaijani legislation, illegal crossing of the Azerbaijani border gives rise to criminal liability. According to article 52 of the Azerbaijani Criminal Code, foreigners can be subject to forced expulsion from Azerbaijan after they serve their sentence.

This provision does not cover foreigners and stateless persons who arrived in Azerbaijan violating the state border crossing rules, in order to use their right to political asylum stipulated in the Constitution of Azerbaijan, if actions of these persons are not associated with any other offence¹¹.

In urgent cases, based on petition of the foreign state, executive bodies of Azerbaijan undertake necessary steps to find and arrest the person in question before receiving the request for extradition¹². These steps are set forth in the criminal procedure legislation of Azerbaijan.

2.2.3 Expulsion

2.2.3.1 Immigrants

Decision on stripping a foreigner or stateless person of the immigrant status and on expulsion from Azerbaijan is made by the court (judge).

Immigrant status is annulled in the following cases:

- when permit to reside in Azerbaijan was obtained on the basis of fake documents and false information;
- when it is required by the Azerbaijani state security or public order;
- when administrative expulsion is applied to foreigners and stateless persons in cases envisaged by the Azerbaijani Code of Administrative Offences¹³;
- when the person in question leaves to reside permanently in another country;
- when the person in question resides outside Azerbaijan for over 6 months a year.

⁹ Article 15 of the Law “On departure from the country, entry to the country, and passports”.

¹⁰ Article 318 of the Criminal Code of Azerbaijan.

¹¹ Article 318 of the Criminal Code of Azerbaijan.

¹² Article 7 of the Law “On extradition of persons who committed a crime”.

¹³ Note: Article 29 of the Code of Administrative Offences, administrative expulsion from Azerbaijan of foreigners or stateless persons is applied in cases stipulated in the special section of the Code.

If an immigrant does not leave the territory of the country within 7 days after the court ruling on expulsion, he or she is expelled from Azerbaijan by force. An immigrant who committed a grave crime or felony can be forcefully expelled from Azerbaijan¹⁴. Forced expulsion from Azerbaijan can be imposed on foreigners after they serve their sentence¹⁵.

2.2.3.2 Foreigners and stateless persons without immigrant status

Foreigners and stateless persons, who do not have immigrant status and committed a gross violation of the legislation on legal status of foreigners and stateless persons¹⁶, can be expelled from Azerbaijan on the basis of decision made by the Ministry of Interior, the State Migration Service or the court¹⁷.

If decision is made by the State Migration Service or the Ministry of Interior to expel a foreigner or a stateless person without immigrant status from the country, they are to leave Azerbaijan within the period stipulated in this decision (48 hours). The term of expulsion from Azerbaijan is the same for all foreigners to be expelled. However, the body that made a decision on expulsion considers a possibility of extending the term of expulsion in certain cases, such as delayed processing of documents of the foreigners to be expelled or circumstances delaying the execution of decision on expulsion (the need for urgent medical treatment of this person or severe illness or death of this person's close relative)¹⁸. Decision on expulsion of a foreigner from the country is made by the body that discovered an administrative offence committed by this foreigner within its scope of competence. For instance, the State Migration Service focuses on such offences as foreigner's stay in Azerbaijan without necessary documents; residence in Azerbaijan on the basis of invalid documents; failure to comply with travel, residence and registration procedures; violation of employment rules; failure to leave Azerbaijan after expiration of the assigned period of stay.

An administrative offence committed by a foreigner or a stateless person giving rise to administrative liability under the Code on Administrative Offences serves as a basis for decision on administrative expulsion of this foreigner or stateless person from Azerbaijan.

Foreigners and stateless persons who do not have immigrant status and evade departure from Azerbaijan are subject to arrest and forced expulsion from Azerbaijan on the basis of court (judge) ruling¹⁹.

If a foreigner or a stateless person is likely to evade²⁰ the execution of decision on administrative expulsion from Azerbaijan, the court can place this person in the facility of the relevant executive body for placement of illegal migrants, until the expulsion takes place²¹. Expenses associated with administrative expulsion from Azerbaijan are borne by foreigners or stateless persons to be expelled. If these persons do not have necessary funds, these expenses are covered by host institutions, enterprises and organizations, and in case of foreigners or stateless persons who resided in Azerbaijan or arrived in Azerbaijan for personal reasons these expenses are covered by the relevant executive body of

¹⁴ Article 13 of the Law "On immigration".

¹⁵ Article 52 of the Criminal Code of Azerbaijan.

¹⁶ Position of foreigners and stateless persons in Azerbaijan is regulated by the Law "On legal status of foreigners and stateless persons".

¹⁷ Paragraph 2 of the Rules of expulsion from Azerbaijan of foreigners and stateless persons without immigrant status.

¹⁸ Paragraph 12 of the Rules of expulsion from Azerbaijan of foreigners and stateless persons without immigrant status.

¹⁹ Paragraph 14 of the Rules of expulsion from Azerbaijan of foreigners and stateless persons without immigrant status.

²⁰ Cases of evasion are discovered by officers of the executive body and relevant information is included in the decision on detention. However, legislation does not envisage such procedural action.

²¹ Article 457 of the Code of Administrative Offences. Note: decision is executed within 48 hours. In Azerbaijani practice there have been no cases where expulsion of foreigners or stateless persons from Azerbaijan to the country of origin (or third country) would be impossible.

Azerbaijan²². If the host institutions, enterprises and organizations refuse to cover these costs, then expulsion takes place at the expense of the state. However, these costs can then be reclaimed in court.

Rules of expulsion of foreigners and stateless persons without immigrant status

A protocol is drawn up on violation of Azerbaijani legislation by a foreigner or a stateless person without immigrant status. This protocol lists the facts associated with violation of legislation and establishes legal grounds for expulsion²³. In each particular case the body making decision on expulsion of these persons is obliged to consider the reasons for their failure to leave the country. If the foreigner to be expelled does not have identity documents, procedure of document processing and identity check is direct, if there is an agreement between this body and authorized agencies of the foreign state, and in all other cases it is done via Ministry of Foreign Affairs²⁴.

Before the decision on expulsion is made, information about this person is checked by way of inquiries submitted within the inter-agency automated search system “Entry-Exit and Registration” or within the unified migration information system²⁵. Decision on expulsion of a person from Azerbaijan is to list the grounds for his or her expulsion²⁶. One copy of this decision is given to the person expelled. If the person does not speak Azerbaijani, he or she is provided an interpreter²⁷. The person is to leave Azerbaijan within 48 hours²⁸. Before expulsion takes place, the person can be voluntarily placed in a facility of the State Migration Service for placement of illegal migrants²⁹. Persons evading departure from Azerbaijan following the court (judge) ruling are subject to arrest and forced expulsion from Azerbaijan³⁰. The Ministry of Interior and the State Migration Service are to perform forced fingerprint registration of the person with regards to whom decision was made on expulsion from Azerbaijan³¹. Expulsion is organized as follows:

- a foreigner is expelled to his or her country of citizenship;
- a stateless person is expelled to the country where he or she earlier resided permanently, to the country where he or she directly came to Azerbaijan from, to the country that agreed to admit this person and filed a corresponding request;
- a person with double citizenship is expelled to the country of permanent residence or to the country with which he or she has the strongest ties³².

The Ministry of Foreign Affairs informs the relevant country about expulsion of a certain person from Azerbaijan via Ministry of Foreign Affairs and State Migration Service³³.

Information on persons to be expelled from Azerbaijan is also sent to the State Border Service. These persons are escorted by officers of the Ministry of Interior and the State Migration Service to the checkpoints at the state border and are transferred to the officers of the State Border Service³⁴.

²² Article 457.4 of the Code of Administrative Offences.

²³ Paragraph 5 of the Rules of expulsion from Azerbaijan of foreigners and stateless persons without immigrant status.

²⁴ Ibid. Paragraph 5.

²⁵ Ibid. Paragraph 8.

²⁶ Ibid. Paragraph 9.

²⁷ Ibid. Paragraph 10.

²⁸ Ibid. Paragraph 11.

²⁹ Ibid. Paragraph 13.

³⁰ Ibid. Paragraph 14.

³¹ Ibid. Paragraph 17.

³² Ibid. Paragraph 18.

³³ Ibid. Paragraph 18.

³⁴ Ibid. Paragraphs 18-19.

Persons expelled from Azerbaijan according to procedure established by the State Border Service are entered into the inter-agency automated search system “Entry-Exit and Departure” and the State Migration Service keeps record of them³⁵.

2.2.3.3 Entry ban

According to article 12 of the Law “On departure from the country, entry to the country, and passports”, entry to Azerbaijan is banned for persons were earlier expelled from Azerbaijan. According to article 12, entry of foreigners to Azerbaijan is banned only in the following cases:

- if this is required by national security interests or public order protection;
- if this is necessary for protection of rights and legal interests of Azerbaijani citizens and other persons;
- if the person in question violated Azerbaijani law during the previous visit to Azerbaijan;
- if the person gave false personal information when petitioning for entry to Azerbaijan;
- if entry to Azerbaijan of the person suffering from psychiatric or contagious diseases poses a threat to the health of the population (persons not posing such a threat and arriving for medical treatment at their own expense or at the expense of legal guardians or representatives are an exception from this rule);
- if this person was earlier expelled from Azerbaijan;
- if the stay of this person in Azerbaijan was deemed undesirable³⁶.

2.2.3.4 Rights and protection

Forced expulsion from Azerbaijan is not imposed on persons who had resided in Azerbaijan for five years by the time the sentence entered into force (judicial ruling proving commitment of a crime by this person); persons who are married to the citizen of Azerbaijan when the sentence enters into force; persons born in Azerbaijan; persons whose parent is a citizen of Azerbaijan; persons with refugee status or political asylum in Azerbaijan; persons having underage dependents; as well as legally incompetent persons or persons with type I and II disabilities; persons with regards to whom there are sufficient reasons for believing that they will be subjected to torture or persecution in the country where they will go after expulsion³⁷.

Extradition can be denied in the following cases:

- if the legislation of the requesting foreign state envisages death penalty for the crime that serves as a basis for extradition;
- when there are sufficient reasons to believe that as a result of extradition the person in question will be subjected to torture or cruel, inhumane treatment or degrading punishment in the requesting state;
- if there are sufficient reasons to believe that as a result of extradition the person in question will be subjected to persecution due to race, nationality, language, religion, citizenship, political beliefs or gender;
- if the crime serving the basis for extradition was committed outside the requesting foreign state and there is no criminal liability for this crime according to Azerbaijani legislation;
- when this person is held criminally liable in Azerbaijan for the crime that serves the basis for extradition;

³⁵ Ibid. Paragraph 20.

³⁶ Article 12 of the Law “On departure from the country, entry to the country, and passports”.

³⁷ Article 52 of the Criminal Code of Azerbaijan.

- when there are sufficient reasons to believe that extradition will inflict damage on sovereignty, security or other important interests of Azerbaijan;
- when decision was made in accordance with Azerbaijani law to stop prosecution for the crime that is a basis for extradition³⁸.

If a foreigner or a stateless person is recognized as a victim of human trafficking, for one year this person is not subject to administrative expulsion from Azerbaijan. If the one year period expired, but this foreigner or stateless person is assisting criminal investigation of the human trafficking cases, this person is not subject to administrative expulsion from Azerbaijan until completion of the criminal investigation. A foreigner or a stateless person who is a victim of human trafficking within one year can apply to the relevant government agencies for a residence permit in Azerbaijan. When this application is considered, one takes into account cooperation of the human trafficking victim with criminal prosecution agencies, physical and moral suffering of the human trafficking victim, period of time as a human trafficking victim, as well as the danger of becoming a human trafficking victim again or being subjected to persecution by human traffickers after repatriation to the home country. Administrative expulsion from Azerbaijan is not imposed on children who became victims of human trafficking. Return of children who became human trafficking victims to their countries or their parents is permitted only if this child does not risk becoming a human trafficking victim. When one decides on the issue of return of children who became human trafficking victims to their countries or to their parents, opinion of children older than 10 is taken into account. If the human trafficking victim wishes to leave Azerbaijan, assistance is rendered in providing this person with necessary documents and covering transportation and other necessary expenses, recommendations are given on reducing the danger of becoming a human trafficking victim in the recipient country. Residence permit cannot be granted to human trafficking victims, foreigners and stateless persons, whose identity cannot be established. Measures are undertaken to carry out administrative expulsion of this person from Azerbaijan³⁹.

When foreigners are assigned punishment in the form of expulsion from Azerbaijan, one takes into account the nature and degree of public danger posed by the crime committed and the personality of the criminal, including mitigating and aggravating circumstances, as well as impact of the assigned punishment upon reformation of the offender and his or her family's living conditions⁴⁰.

³⁸ Article 3 of the Law "On extradition of persons who committed a crime".

³⁹ Article 20 of the Law "On combat against human trafficking".

⁴⁰ Article 52 of the Criminal Code of Azerbaijan.

**Azerbaijan: Readmission, Return and
Reintegration in the Socio-Political Context**

SERGEY RUMYANSEV

Socio-Political Module

Agreements on readmission directly related to the issues of irregular / illegal¹ and return migration should be considered while placing the analytical focus on several aspects:

The first of these is interstate. It deals with the current state of affairs at the official (political) level and the prospects of concluding interstate agreements on readmission. Here, the focus is on how pressing those issues are in the context of political processes in present-day Azerbaijan.

The second is the problem of irregular (illegal) migration from Azerbaijan and associated problems of readmission and return migration.

Finally, *the third is the problem of irregular / illegal migration* to Azerbaijan.

1. Interstate relations

At present, there are no agreements on readmission between Azerbaijan and any other country. In April 2011, Arzu Rahimov, the then head of the State Migration Service, emphasized at a press conference: “We have our own position, and agreements will be concluded with certain countries when the time comes”². Negotiations between Azerbaijan and the EU on facilitation of the visa regime and readmission were launched in March 2012³. Deputy Foreign Minister Mahmud Mamedkuliev saw the start of official talks as a crucial step in cooperation with the EU⁴.

According to the most recent statements of Azerbaijan and the EU, talks will continue in the first quarter of 2013. Thus, according to Foreign Minister Elmar Mamedyarov, in December 2012, only a few issues regarding readmission of citizens from third countries were still unresolved. The Minister also emphasized: “We are trying to find a solution to these remaining issues. And I believe that the round of talks next year will be the final one”⁵. The head of the EU Delegation to Azerbaijan Roland Kobia does not believe the problem of visa regime facilitation to be irresolvable. According to him, the next round of talks will take place on March 12, 2013. Kobia also underlines that “the parties should make a greater effort working on readmission treaties”⁶.

Judging from the publications in the media, negotiations on these issues do not play a significant role in the political life of Azerbaijan⁷. Some experts publishing comments in the media point to the

¹ As for criteria of irregular migration, see: Christal Morehouse, M. Blomfield, *Irregular Migration in Europe* (Washington, DC: Migration Policy Institute, 2011): 4-5.

² *Azerbaijan does not have readmission agreements with any country – Arzu Rahimov*: <http://www.trend.az/news/politics/1858053.html>. Access date: 8.01.2013.

³ B. Safarov, “Azerbaijan-EU talks will continue next year”. Newspaper “*Echo*”, 8.11.2012.

⁴ *Azerbaijan and the EU started talks on visa regime facilitation*: <http://www.kavkaz-uzel.ru/articles/202200/>. Access date: 8.01.2013.

⁵ Elmar Mamedyarov “There is progress in the talks between Azerbaijan and the EU on visa regime facilitation”: <http://ru.apa.az/news/237384>. Access date: 29.01.2013.

⁶ Talks on visa regime facilitation between Azerbaijan and Europe are going on: <http://www.trend.az/regions/scaucasus/azerbaijan/2112777.html>. Access date: 29.01.2013; *There is progress on visa regime facilitation in Azerbaijan*: <http://kavkasia.net/Azerbaijan/2013/1358907469.php>. Access date: 29.01.2013.

⁷ Analysis of the popular Azeri mass media in 2012 (newspapers *Echo*, *Mirror*, news sites Day.az, contact.az) demonstrates that over the year of talks, around two dozen small articles and news reports covered visa regime facilitation and the readmission treaty between the EU and Azerbaijan. Neither the president, nor prominent opposition representatives touched upon the topic of these talks. In general the issue of visa regime modification attracts slightly more attention than the treaty on readmission. For instance, see: *There is a traditionally solid cooperation between Azerbaijan and the EU – Elmar Mamedyarov*: <http://www.1news.az/politics/20121217112945734.html>. Access date: 15.01.2012; R. Orudzhev “EU demonstrates readiness for rapprochement”. Newspaper *Mirror*, 17.12.2012: <http://www.zerkalo.az/2012/es->

fact that the issue of readmission agreements is important for the country, but public officials do not widely discuss it in the press⁸.

This state of affairs is caused by a number of factors. Unlike the stance adopted in neighboring Georgia, in Azerbaijan, key representatives of the political regime have underlined on numerous occasions that they are not in a hurry to get integrated into Europe and NATO⁹. The policy of sending students to study in the EU that is widely promoted in Azerbaijan is regulated by a number of agreements that are not directly contingent upon these talks¹⁰. The readmission agreement with the EU member states remains overshadowed by the talks on visa regime facilitation.

The possibility of a simplified visa application procedure is positively perceived both by public officials and by ordinary citizens of the country, despite the fact that this agreement is likely to directly touch upon a relatively small number of Azeri citizens¹¹. In general, the issues associated with the regulation of migration processes that used to involve the Azeri population in the post-Soviet period have lost urgency in recent times. The discourse about the need to bring back the citizens who had left the country due to economic difficulties was replaced by a discourse concerning the potential migration attractiveness of Azerbaijan. In this context, discussions about illegal migrants, including those who aspire to obtain asylum in the EU, gave way to discussions about the need to resolve the problem of migrants illegally staying in the territory of Azerbaijan¹². For instance, a well-known migration expert Azer Allakhveranov, who frequently comments upon readmission agreements and irregular migration in the mass media, argued in a 2007 interview that:

According to the data of international migration agencies, at present there are around 50 thousand Azeri in Western Europe, mostly staying there illegally. At some point, they applied for refugee status, but were denied this by migration institutions. They were supposed to leave Europe, but never did and simply changed their place of residence. It turns out that today these people cannot even come back to Azerbaijan because of the fear of being detained and deported. And they do not want to be deported, as in this case they will not be able to enter Europe for five years. <...> 50 thousand is a big figure, but Azeri public structures for some reason do not make statements in this regard and maintain silence¹³.

demonstriruet-gotovnost-k-sblizheniyu/. Access date: 15.01.2013; B. Safarov, Ibid; T. Rafikoglu, N. Karu, "Azerbaijan does not plan to sign bilateral readmission treaties yet". Newspaper *Echo*, 8 June 2012.

⁸ See, for instance, T. Rafikoglu, N. Karu, Ibid.

⁹ See, for instance, *Azerbaijan does not intend to join the EU yet*: <http://www.trend.az/news/politics/2070094.html>. Access date: 15.01.2013; Zh. Mamedova, N. Abasov "On absence of the European option for Azerbaijan, Ukraine and Georgia". Newspaper *Echo*, No. 16 (2930), 16.01.2013.

President Ilham Aliyev often talks about successful partnership with NATO, but has never stated that Azerbaijan strives to become a full partner of the alliance in the future. See, for instance, *Ilham Aliyev and NATO Secretary General Anders Fogh Rasmussen had a joint press conference*: <http://ru.president.az/articles/5845>. Access date: 15.01.2013.

¹⁰ According to the Azeri Ministry of Education, around five thousand students will undergo education in the EU, US, Japan etc. in 2007-2015 within the "State Program on young Azeri obtaining education abroad in 2007-2015": <http://www.edu.gov.az/view.php?lang=ru&menu=256>. Access date: 8 January 2013.

¹¹ The main flow of migrants from Azerbaijan travels to Russia and other CIS countries, as well as Turkey, rather than to EU member states. See: Rumyantsev, *Labor migration and social inequality in post-Soviet Azerbaijan*. Available: <http://www.carim-east.eu/media/CARIM-East-2012-RU-15.pdf>. Access date: 15.01.2012; Rumyantsev, *General trends of migration processes and policy in post-Soviet Azerbaijan (immigration and emigration)*: <http://www.carim-east.eu/media/exno/Explanatory%20Notes%20AZ1%20corrected.pdf>. Access date: 15.01.2013.

¹² For more information on these modifications see: Rumyansev S. (2010), "Post-Soviet Nation State as a Sponsor of Construction of the Ethno-National Diaspora: Azeri's Case", *Revue Européenne des Migrations Internationales (REMI)*, 2010 (26) No 3, pp. 111-131; S. Rumyantsev (2011), "Time of diaspora: Nation state and policy of ethno-national society construction" in *State, Migration and Cultural Pluralism in Today's World. Materials of the international scientific conference*, Ed. by V.S. Malakhov, V.A. Tishkov, A.F. Yakovleva, Moscow: IKAR, p. 188-211.

¹³ Z. Babaeva. Azer Allakhveranov: "Today more than a million of our compatriots are outside Azerbaijan, and the conditions they live in are not paradise". Interview of Day.az with the head of the national resource center for migration issues: <http://news.day.az/society/74620.html>. Access date: 8.01.2013.

The statistical data given in this interview raise a number of questions, since accounting for such migrants is a difficult and imprecise task. It is more important to point out that several years later, Allakhveranov commented on readmission talks and focused mostly on problems that Azerbaijan faces, while references to irregular migration from Azerbaijan to the EU lost their urgency. Thus, according to Allakhveranov:

In 2011, around 2,000 Azeri citizens requested asylum in the EU member states. The dynamic of recent years and the comparison of figures that we get from the Office of the UN High Commissioner for Refugees, which is in charge of keeping records, gives us reason to conclude that the number of persons from Azerbaijan applying for asylum in the EU goes down with every year. Just 10 years ago, thousands of people filed such applications in the EU¹⁴.

These figures, and the problem of irregular migration (and, all the more so, the intention of many Azeri citizens to obtain refugee status) are not considered in the context of official policy. A number of experts believe that the position of Azeri authorities with regards to readmission is explained by the unwillingness of thousands of migrants to come back, as they might join the ranks of the unemployed¹⁵. At the official level, such suppositions are not voiced.

2. The problem of return and reintegration in Azerbaijan

There are no state programs of assistance for citizens returning to Azerbaijan. Furthermore, migrants who returned to their home country prefer not to talk much about their experiences and do not count on any assistance or participation in reintegration programs. Different opportunities are used for return and (re)integration. These are primarily far-reaching informal family, community and friend networks. Re-emigrants in Azerbaijan are usually not subject to any pressure from authorities, even if they made attempts to get political asylum and/or refugee status elsewhere. Many, while attempting to emigrate from the country, nevertheless retain property (apartments etc.). This also contributes to (re)integration after their return to Azerbaijan¹⁶.

One should note that, over the course of the last 2-3 years, the number of irregular migrants leaving Azerbaijan to the EU has been constantly decreasing¹⁷. In 2010 and 2011, Azerbaijan was not on the list of the 30 countries supplying the majority of migrants aspiring to receive asylum in the EU¹⁸. The economic growth observed in the country is only one of the reasons underlying explaining the decline in interest regarding migration to the EU. Rather, one should mention that most Azeri citizens who are ready to migrate and apply for asylum in the EU have already made such attempts. The tightening of rules and conditions of acquiring refugee status and asylum in the EU also plays an important role¹⁹.

¹⁴ T. Maksutov, N. Aliev, "Azeri citizens apply for asylum in the European Union less and less often". Newspaper *Echo*, No. 242 (2922), 31.12.2012.

¹⁵ See: *Europe is flooded by illegal Azerbaijani migrants*: <http://dailyaznews.wordpress.com/tag/%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD-%D0%BE-%D1%80%D0%B5%D0%B0%D0%B4%D0%BC%D0%B8%D1%81%D1%81%D0%B8%D0%B8/>. Access date: 15.01.2013. About illegal migration to the EU countries see: Yunusov A. (2009), *Migration Processes in Azerbaijan*, Adiloglu: Baku, p. 169-171. For information on employment of the Azerbaijani population in the context of migration processes see: S. Rumyantsev (2012), *Labor migration*, Ibid..

¹⁶ The author conducted 32 interviews with re-emigrants in 2009-2012.

¹⁷ Yunusov, Ibid., 138-147; T. Maksutov, N. Aliev, Ibid.; Eurostat. Countries of origin of (non-EU-27) asylum seekers in the EU-27 Member States, 2010 and 2011 (1): http://epp.eurostat.ec.europa.eu/statistics_explained/index.php?title=File:Countries_of_origin_of_%28non-EU-27%29_asylum_seekers_in_the_EU-27_Member_States_2010_and_2011_%281%29.png&filetimestamp=20121012123304

¹⁸ Unlike neighboring Armenia and Georgia, which were numbers 13 and 14 respectively.

¹⁹ T. Maksutov, N. Aliev, Ibid.

A certain share of irregular migrants (who did not acquire asylum in the EU) often leave again for the same countries after having been deported home. The same can be said about irregular migration in the CIS space²⁰.

3. Irregular migration in Azerbaijan

In the context of the official discourse, irregular migration to Azerbaijan becomes a more and more pressing problem with every year²¹. There are no trustworthy statistics regarding the number of such migrants on the territory of Azerbaijan. According to the latest official data of the State Migration Service, in November 2012 only 6,276 applications were filed to extend permits of temporary stay in the territory of Azerbaijan. Meanwhile, 1,520 foreigners were instructed to leave the country within 48 hours. 119 foreigners were expelled from Azeri territory²². As for migrants in Azerbaijan, the main official policy (action plan) is to exercise control over them²³. There are no working programs of migrant integration.

Main conclusions

By and large, the regulation of migration processes is reduced to the construction of the discourse about the attractiveness of Azerbaijan and the exercise of control over migrants. The conclusion of readmission agreements, as well as (re)integration and assistance to returning migrants are not seen as pressing issues. One can also argue that the number of irregular migrants from Azerbaijan exceeds the number of illegal migrants arriving in the country. As a result, readmission agreements can be considered an uncomfortable issue for Azerbaijan.

²⁰ In July-August 2012 in Baku, the author conducted 6 interviews with migrants from Azerbaijan to Russia who have such experiences.

²¹ Rumyantsev, Ibid.; S. Rumyantsev (2012), *General trends of migration processes and policy in post-Soviet Azerbaijan (immigration and emigration)*: <http://www.carim-east.eu/database/socio-political-module/?ss=1&country=Azerbaijan&lang=ru>. Access date: 15.01.2013.

²² *Official statistical information of the Azerbaijani State Migration Service for November 2012*: <http://migration.gov.az/index.php?section=009&subsection=041&lang=ru&pageid=4157>. Access date: 8.01.2013.

²³ See: S. Rumyantsev, *Labor migration*, Ibid.; Rumyantsev, *General trends of migration processes and policy in post-Soviet Azerbaijan (immigration and emigration)*; S. Rumyantsev (2012), *A new immigration policy in Azerbaijan*: <http://www.carim-east.eu/media/exno/Explanatory%20Notes%20AZ1%20corrected.pdf>. Access date: 15.01.2013.

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**Readmission, Return
and Reintegration in Georgia**

MIRIAN TUKHASHVILI

Demographic and Economic module

The issue of regulating migratory processes has drawn increasing attention in Georgia over the last few years. Entities are being established within different ministries and normative acts for regulating this sphere are being published. Recipient countries have to deport illegal immigrants back to their countries of origin. However, there are now attempts to make their return to the homeland, including, *inter alia*, their deportation, as humane as possible complying with internationally recognized human rights principles.

It must be noted that the registration of those deported has improved significantly over the last years; however, there are still a few countries, which fail to submit comprehensive information to Georgia on deported individuals. Therefore, even though, the available data with respect to deportation cases are incomplete, the data still represent the actual situation. The share of deportations from EU countries to Georgia is not high. For instance, this share constituted some 10-20% of the individuals deported, 2005-2007. Main countries of deportation for Georgia include Russia, Turkey and Ukraine. It is also noteworthy to remark that the execution of some acts of deportation in this period was accompanied by harsh human rights violations. As a good illustration of this fact, it will suffice to recall the use of transport planes to deport Georgians from Russia to our country in 2006.

Table 1. Number of deported individuals by country of deportation, 2005-2007

Years of deportation	Total	among them		
		Russia	Turkey	Ukraine
2005	5059	1071	2173	320
2006	6984	3460	1024	429
2007	9607	2047	5319	823

Source: Ministry of Internal Affairs of Georgia

In 2009-2010, the number of those deported, including those deported from EU countries, did not decrease; for instance, 780 citizens were deported from these countries in 2009 and 1271 in 2010.

Table 2. Number of the individuals deported from EU countries by sex, 2009-2010

EU Country	Total	Sex	
		Male	Female
Austria	147	120	27
Belgium	31	28	3
Bulgaria	1	1	X
Germany	339	308	31
Denmark	2	1	1
United Kingdom	59	50	9
Spain	120	114	6
Estonia	2	2	X
Ireland	44	40	4
Italy	17	14	3
Cyprus	6	2	4

EU Country			
	Total	Sex	
		Male	Female
Lithuania	3	3	X
Netherlands	66	58	8
Poland	489	402	87
Portugal	4	4	X
Romania	4	4	X
Greece	415	343	72
France	119	108	11
Slovakia	6	5	1
Slovenia	1	1	X
Hungary	4	4	X
Finland	4	4	X
Sweden	27	25	2
Czech Republic	106	100	6
Total	2051	1778	278

Source: Ministry of Internal Affairs of Georgia

Table 3. Number of the individuals deported from EU countries, 2009-2010, 2011

EU country	Year	
	2009-2010	2011
Austria	147	44
Belgium	31	21
Bulgaria	1	4
Germany	339	113
Denmark	2	2
United Kingdom	59	20
Spain	120	52
Estonia	2	2
Ireland	44	18
Italy	17	19
Cyprus	6	10
Latvia	35	24
Lithuania	3	8

EU country	Year	
	2009-2010	2011
Netherlands	66	34
Poland	489	159
Portugal	4	3
Romania	4	6
Greece	415	127
France	119	35
Slovakia	6	3
Slovenia	1	X
Hungary	4	11
Finland	4	5
Sweden	27	27
Czech Republic	106	21
Total	2051	768

Source: Ministry of Internal Affairs of Georgia

Illegal frontier crossing, using forged documents and following illegal labour activities is the main reason for deportation.

Based on the agreement concluded between Georgia and the EU countries, target programs aiming to support persons returned from the EU to Georgia have been implemented (Table 4).

Table 4. Readmission Statistics for Georgia (01.03.2011-01.01.2013)

Requesting State	Number of requests	Approved	Declined
Germany	411	366	45
Austria	276	253	23
Greece	207	202	5
Netherlands	116	102	14
Sweden	98	86	12
Lithuania	90	89	1
Belgium	104	100	4
Poland	69	68	1
Spain	67	66	1
Italy	58	50	8
Hungary	24	24	X
France	37	33	4

Requesting State	Number of requests	Approved	Declined
Cyprus	11	11	X
Romania	6	6	X
Bulgaria	4	4	X
Czech Republic	4	4	X
Portugal	5	4	1
Finland	3	3	X
Estonia	5	5	X
Slovak Republic	1	1	X
TOTAL	1596	1477	119
Percentage	100,0	92,5	7,5

Source :Ministry of Internal Affairs of Georgia

The International Organization for Migration (IOM) plays a major role here by providing assistance to Georgian citizens, residing in EU countries. They have been ready to return to their homeland voluntarily since 2003 (Table 5).

Table 5. Assisted Voluntary returns to Georgia by country of departure (2003-2012)

Country of departure	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Belarus	0	0	0	0	0	0	32	27	9	0	68
Belgium	0	0	0	0	4	4	19	30	24	11	92
Czech Republic	8	13	56	18	4	2	1	0	0	0	102
Ireland	0	0	0	3	13	10	35	38	32	11	142
Poland	0	0	0	1	0	0	186	227	86	29	529
Switzerland	0	0	0	37	46	56	68	45	33	16	301
United Kingdom	3	8	24	41	31	23	26	25	13	4	198
Slovakia	0	0	0	0	0	0	4	18	4	0	26
Latvia	0	0	0	0	0	0	4	7	51	16	7
Lithuania	0	0	0	0	0	0	0	7	1	0	8
Netherlands	0	0	0	0	0	0	0	69	16	2	87
Austria	0	0	0	0	0	0	0	0	10	21	31
Norway	0	0	0	0	0	0	2	7	5	5	19
Other	0	0	0	0	1	3	2	14	27	20	67
Total	11	21	80	100	99	98	379	514	311	135	1748

Source : <http://www.iom.ge/index.php?activities&reintegration&avr&>

The assistance package for reintegration includes provision for free travel, vocational training, temporary asylum, medical care and help with a small business startup.

Under respective programs undertaken by IOM, over 1,600 citizens have been given reintegration support. Thanks to this assistance, over 100 individuals succeeded in getting jobs, while 580 returnees either launched a new or extended an already existing small business; 72 individuals acquired professional qualifications by participating in vocational training courses, whilst 66 families were granted provisional accommodation.

Supporting small business turned out to be especially successful in the following fields:

1. Small shops selling essential commodities;
2. Small agricultural enterprises (meat and dairy production, bee keeping, technical maintenance of vehicles);
3. Furniture manufacture; setting up bakeries;
4. Assistance in organizing training courses in various computer programs, foreign languages and accounting.

“Targeted Initiative Georgia” (TIG) is the most important project within the framework of the Mobility Partnership Agreement signed between Georgia and the EU in November 2009. It aims at facilitating readmission between Georgia and EU countries. The project is being implemented by a consortium consisting of nine EU states headed by the Ministry of Internal Affairs of the Czech Republic, in cooperation with the IOM and the local Georgian authorities. The total budget of this three-year project is 3,020,000 EUR, within which 3 million EUR have been allocated by the EU and 20,000 EUR- by the Ministry of Labour, Health and Social Protection of Italy (Annex 1).

Under this project, the so-called mobility centers being established in various regions of Georgia offer the following services to those readmitted: general consultations, emergency medical care, temporary asylum, consulting on employment issues and business start-up (Annex 2).

This conclusion can be offered: readmission to Georgia has many positive aspects; however, in our opinion, its scale is small and therefore, it is not capable of substantially influencing the process of return of our compatriots to Georgia.

**Return, Readmission and Reintegration:
The Legal Framework in Georgia**

GAGA GABRICHIDZE

Legal Module

1. Relevant terms

In Georgian legislation the term “return” is not generally defined, though there is a term “return certificate”. This is defined as “a one-way travel document issued to return to Georgia from foreign countries”.¹

The term “readmission” is also not defined. This is not problematic as in Georgian legislation this term is employed only in the context of the implementation of relevant international agreements.

According to Georgian legislation a foreign citizen may voluntarily return to his or her country of origin or third country before the expiry of the legal term of stay in Georgia, but also within 10 days of the expiry of this term. Even after that the foreign citizen can voluntarily leave the country. However, in this case he/she has to pay a fine.

Georgian legislation, forced return is labeled “expulsion”. There are two form of expulsion: 1) expulsion, meaning voluntary departure within the term set by the competent authority; 2) forced expulsion, meaning the enforcement of the decision on expulsion through the responsible authorities.

Furthermore, some confusion is caused by the fact that there is another term, namely “administrative expulsion”, mentioned in the Code of Administrative Offences (Article 24). This may be imposed as a sanction on a foreign citizen who has infringed the law. As there are no further specific provisions with regard to “administrative expulsion” in Georgian legislation, it can be assumed that the abovementioned provision does not establish an additional form for expulsion. This kind of expulsion is also implemented under the general rules on expulsion as established by the Law on Legal Status of Aliens and Stateless Persons.

In contrast to the abovementioned terms, the term “non-refoulement” is not only used in the Georgian legislation, but its meaning is also given in the Law on Refugee and Humanitarian Status.² Georgian usage corresponds to the usage of this term at the international level.

2. Return to Georgia

A return certificate may be issued, if travel documents are expired or lost or if the travel document is invalid for travel (damaged). This would be issued for voluntary returns to Georgia or expulsion to the same or for the purpose of readmission. The issuance, validity and usage rules of the return certificate to Georgia is regulated by the Decree of the President of Georgia of 27 February 2012, No 142.³ In addition to the case mentioned above, it may also be issued with the purpose of returning persons about to be extradited or to persons returned through the implementation of court decisions.⁴

There is also the question of readmission agreements. Taking into consideration its territorial scope of application and its factual effects, the most important agreement is the Agreement between the European Union and Georgia on the Readmission of Persons Residing without Authorization.⁵ This was signed on 22 November 2010 and came into force on 1 March 2011. Prior to concluding this agreement Georgia concluded readmission agreements with Italy (signed in 1997, but which never

¹ Article 3 of Decree of the President of Georgia of 27 February 2012, No 142.

² See below.

³ Decree No 142 of 27 February 2012 of the President of Georgia on Approval of Statute on Certificate to Return to Georgia. „Sakartvelos Sakanonmdblob Matsne“, www.matsne.gov.ge, 27/02/2012.

⁴ Article 3 of the Decree No 142 of 27 February 2012 of the President of Georgia on Approval of Statute on Certificate to Return to Georgia.

⁵ OJ L 52 of 25/02/2011, p. 47.

entered into force), Bulgaria (2003), Switzerland (2005), Germany (2008) and Latvia (2009). Most recently, an Agreement on Readmission of Persons Residing without Authorization was signed, 10 November 2011, between Georgia and the Kingdom of Norway which came into force on 3 February 2012. It should be noted that the Readmission Agreement concluded between the EU and Georgia does not supersede all previous agreements between individual Member States and Georgia. However, its provisions take precedence over the provisions of any bilateral agreement, in so far as the provisions of the latter are incompatible with them: Article 20 of the Agreement between the European Union and Georgia on the Readmission of Persons Residing without Authorization. For example, under the Agreement between the EU and Georgia, a readmission application must be replied to within 12 calendar days. The Agreement between Georgia and Bulgaria sets 30 days as the time limit for replying to a readmission agreement. In cases of difference like this, the provisions of the EU-Georgia Readmission Agreement take precedence.

The Decree of the President of Georgia of 26 April 2011, N225⁶ designates the Ministry of Interior of Georgia as the competent authority. The Ministry will be responsible, then, for the implementation of the Agreement between the European Union and Georgia on the Readmission of Persons Residing without Authorization and other readmission agreements concluded by Georgia with other countries.

The rules for the implementation of readmission agreements are approved by the joint Order of the Minister of Internal Affairs, the Minister of Justice, the Minister of IDPs from Occupied Territories, Accommodation and Refugees of 12 March 2012, N185-№35-№63-№22.⁷ This document regulates organizational and procedural matters for the secure return to Georgia of those Georgian citizens, foreign citizens and stateless persons who illegally entered, stayed or resided on the territory of the member states of the EU and in other relevant countries. In particular, this decree provides for the rules for submitting a readmission application⁸, the competences of state authorities participating in the decision-making process⁹, and also the term for examining a readmission application, which is oriented to the term stipulated by readmission agreements (12 calendar days).¹⁰

Finally, it should be stressed that the fact that a third-country national has been readmitted by Georgia does not have any particular impact on his or her status and that the general rules of stay/residence and return apply.

3. Return from Georgia

The legal framework of the process of voluntary and forced return of foreigners is primarily defined by the Law on the Legal Status of Aliens and Stateless Persons.¹¹

⁶ Decree No 225 of 26 April 2011 of the President of Georgia on Implementation of Agreements on Readmission of Persons Residing without Authorization Concluded by Georgia. „Sakartvelos Sakanonmdablo Matsne“, www.matsne.gov.ge, 26/04/2011.

⁷ Joint Order N185-№35-№63-№22 of 12 March 2012 of Minister of Internal Affairs, Minister of Justice, the Minister of IDPs from Occupied Territories, Accommodation and Refugees on Apruvál of the Rules for Implementation of Readmission Agreement. „Sakartvelos Sakanonmdablo Matsne“, www.matsne.gov.ge, 13/03/2012.

⁸ Article 2 of the Joint Order N185-№35-№63-№22 of 12 March 2012 of Minister of Internal Affairs, Minister of Justice, the Minister of IDPs from Occupied Territories, Accommodation and Refugees on Apruvál of the Rules for Implementation of Readmission Agreement.

⁹ Article 3, 5-8 of the Joint Order N185-№35-№63-№22 of 12 March 2012 of Minister of Internal Affairs, Minister of Justice, the Minister of IDPs from Occupied Territories, Accommodation and Refugees on Apruvál of the Rules for Implementation of Readmission Agreement.

¹⁰ Article 4 of the Joint Order N185-№35-№63-№22 of 12 March 2012 of Minister of Internal Affairs, Minister of Justice, the Minister of IDPs from Occupied Territories, Accommodation and Refugees on Apruvál of the Rules for Implementation of Readmission Agreement.

¹¹ Adopted on 27 December 2005 (Last amended on 25 May, 2012). „Sakartvelos Sakanonmdablo Matsne“, 3, 16/01/2006.

3.1 Entry refusal

The law stipulates several grounds for the refusal of entry at the border.¹² These are cases when: the foreigner does not have documents required for entry into the territory of Georgia; during his or her previous stay in Georgia the foreigner was found to have violated Georgian criminal law, or during the last 1 year prior to application was expelled or did not pay the fine for illegal stay on the territory of Georgia; the foreigner presented false information or documents in order to get a visa or to enter the territory of Georgia; the foreigner does not have sufficient financial means for staying and living in Georgia or for return; the foreigner's presence in Georgia may pose a threat to the public order and security, or to the protection of health, rights and the legitimate interests of Georgian citizens and other persons residing in Georgia; the foreigner's presence in Georgia will harm relations between Georgia and other foreign countries; the foreigner does not provide information or provides false information about himself/herself and the purpose of travel; other grounds for refusal as envisaged by Georgian legislation. Refusal of entry shall be made in a written form indicating grounds for refusal.¹³

3.2 Carrier companies

In the process of return the carrier companies are involved. They are obliged to check documents of foreign citizens in order to find out whether they possess a Georgian visa or travel documents for entry into Georgia. They, then, have to return those foreign citizens who were refused entry into Georgia back to the country from which they came.¹⁴ Furthermore, in this case, the carrier companies are obliged to cover all expenses necessary for transportation and staying prior to returning foreign citizens.¹⁵

3.3 Expulsion

The law stipulates a general rule according to which foreigners are obliged to leave the territory of Georgia before the expiry of the term of legal stay in Georgia.¹⁶ However, if they leave the territory of Georgia within 10 days of the expiry of the period of legal stay in Georgia, they will not suffer any fine.¹⁷ According to Article 209 of the Code of Administrative Offences, the competent authority for imposing this kind of administrative responsibility is the Ministry of Interior of Georgia. The relevant decision may be appealed against before the court in accordance with the procedures established by Georgian legislation (see Article 272 of the Code of Administrative Offences).

Within 10 days of expiry of the period of legal stay in Georgia the foreigner is able to depart from Georgia voluntarily without any impediment if he or she has not been apprehended and no expulsion decision has been taken. Even a one-year entry ban is not imposed in such cases. However, the foreigner has to pay a fine before or after their departure from Georgia. The decision on the fine is taken by a border guard who sees that the foreigner has overstayed. If the foreigner cannot pay the fine, the foreigner will be *denied a visa and refused* entry to Georgia in the future until the fine is paid.¹⁸

¹² Article 14.1 of the Law on Legal Status of Aliens and Stateless Persons.

¹³ Article 14.2 of the Law on Legal Status of Aliens and Stateless Persons.

¹⁴ Article 15.1 of the Law on Legal Status of Aliens and Stateless Persons.

¹⁵ Article 15.2 of the Law on Legal Status of Aliens and Stateless Persons

¹⁶ Article 50.3 of the Law on Legal Status of Aliens and Stateless Persons.

¹⁷ Article 50.4 of the Law on Legal Status of Aliens and Stateless Persons.

¹⁸ Article 50.5 of the Law on Legal Status of Aliens and Stateless Persons.

The Law on the legal Status of Aliens and Stateless Persons provides grounds for expulsion of foreigners from Georgia.¹⁹ In particular, a foreigner may be expelled from Georgia if:

- a) he/she illegally entered Georgia;
- b) there are no longer legal grounds for his/her stay in Georgia;
- c) his/her presence in Georgia works against the interests of national security and public order;
- d) his/her expulsion is necessary for the protection of public health, rights and the legitimate interests of Georgian citizens and other persons legitimately residing in Georgia;
- e) he/she regularly violates Georgian legislation;
- f) he/she obtained permission for entry into or stay in Georgia by providing false or invalid documents;
- g) he/she has been sentenced to at least 1 year of deprivation of liberty for one or more premeditated crimes – after serving the sentence.

The decision regarding the expulsion of foreign citizens on grounds a) and b) is made by the Ministry of Justice. In other cases the decision is made by the court.²⁰ As a general rule, the law provides for a list of the circumstances which should be taken into consideration while making a decision on expulsion. These are: length of legal stay in Georgia, personal, social, economic and other links of the person with Georgia; possible consequences of the expulsion of a foreign citizen for his/her family members or persons permanently living with him/her.²¹

The decision on expulsion made by the Ministry of Justice includes the term for the voluntary departure from Georgia.²² The Decree of the President of Georgia of June 28, 2006, No 401,²³ in which the provisions on expulsion are further specified, stipulates, *inter alia*, that the person, who, according to the decision of the Ministry of Justice, is to be expelled, is given a three-day term for voluntary departure from Georgia. If the foreign citizen does not leave the territory of Georgia within this term, he/she shall be removed.²⁴ As to the court's decision on expelling a foreign citizen from Georgia, it should be implemented immediately.²⁵ The decision on expulsion is executed by the National Bureau of Enforcement (under Ministry of Justice).

In addition to the provisions on expulsion of the Law on the Legal Status of Aliens and Stateless persons, the Code of Administrative Offences²⁶ provides for a general rule, according to which foreign citizens who commit administrative infringements may be expelled from the country when they grossly violate law and order.²⁷ Besides, the code imposes sanctions for infringing the rules concerning stay in and transit through the territory of Georgia.²⁸ Overstay by an alien for from 10 days up to 3 months is subject to a fine of 180 GEL. Overstaying for over 3 months is subject to a fine of

¹⁹ Article 55.1 of the Law on Legal Status of Aliens and Stateless Persons.

²⁰ Article 54.1 of the Law on Legal Status of Aliens and Stateless Persons.

²¹ Article 58.5 of the Law on Legal Status of Aliens and Stateless Persons.

²² Article 55.2 of the Law on Legal Status of Aliens and Stateless Persons.

²³ Decree No 401 of 28 June of 2006 of the President of Georgia on Approving the Provisions Governing the Issue of Expelling Aliens from Georgia. „Sakartvelos Sakanonmdblob Matsne“, 88, 30/06/2006.

²⁴ Article 55.4 of the Law on Legal Status of Aliens and Stateless Persons.

²⁵ Article 6 of the Decree No 401 of 28 June of 2006 of the President of Georgia on Approving the Provisions Governing the Issue of Expelling Aliens from Georgia.

²⁶ Adopted on December 15, 1984 (Last amended on 29 June 2012).

²⁷ Article 24.2 of the Code of Administrative Offences. On the issue of the relation of this provision to the articles of the Law on Legal Status of Aliens and Stateless Persons regulating the expulsion of foreign citizens see above section “Relevant terms”.

²⁸ Article 190 of the Code of Administrative Offences.

360 GEL. A foreigner, subject to removal may be detained administratively.²⁹ According to Article 244 of the Code of Administrative Offences, the decision on detention is taken for the purposes of deterring administrative offences or identifying a person in the context of proceedings relating to an administrative offence or implementing a decision taken in an administrative offence proceeding. In this case he/she has to be presented to the court within 48 hours after being taken into detention, so that the decision about the expediency of his/her administrative detention is made. If the court does not issue a decision within the following 24 hours, the foreign citizen is to be released immediately. The foreigner may be further detained in administrative custody until: a) his or her identity, citizenship, country of their permanent residence or country he or she has entered Georgia from are determined; b) the execution of the expulsion of this person from Georgia is completed.³⁰ Georgian legislation does not provide any time limit for administrative detention of foreign citizens.

A foreign citizen after being expelled from Georgia will be *denied a visa and a residence permit and refused* entry to Georgia for one year. In addition, before or after the departure from Georgia, he/she is obliged to pay fine for the violation of the rules of stay in Georgia. If he or she fails to pay the fine, he/she will be *denied a visa and refused* entry to Georgia until the fine is paid.³¹

If a foreigner cannot be expelled he or she keeps his/her legal status.

3.4 Rights

The Law on the Legal Status of Aliens and Stateless Persons contains several articles which should protect the rights of foreign citizens in the process of their return/expulsion. The decision on the refusal of entry as well as expulsion may be appealed in accordance with the procedure established by Georgian legislation.³² Besides, the obligation of a foreign citizen to leave Georgia before the expiry of the term of legal stay in Georgia can be postponed on several grounds.³³ For example, it may be postponed if: foreign citizens have applied for a Georgian visa, residence permit, Georgian citizenship, marriage registration, divorce or birth certificate of his/her child; in cases of illness or birth, if according to a medical report further travel would endanger his/her health; in case of *force majeure*, unforeseen circumstances or if for any other permissible excuse the foreigner cannot leave Georgia, etc.

In order to protect a foreign citizen who is a subject to expulsion from Georgia, the law prohibits his/her expulsion to the country, where: he/she is persecuted for political beliefs or activities which are not deemed as a crime under Georgian legislation; he/she is persecuted for protecting human rights and peace and for progressive social-political, scientific and other creative activities; his/her life and health is under a threat in the country in question.³⁴ In addition, the law generally prohibits the expulsion of particular categories of foreign citizens.³⁵ In particular, the following persons shall not be expelled from Georgia: a foreign citizen having a residence permit in Georgia and residing in Georgia for the last three years without committing any offence; a foreign citizen born in Georgia and having a residence permit in Georgia provided he/she resided in Georgia for the last year without committing any offences; a foreign citizen who is a minor with a residence permit in Georgia, he/she resided in Georgia for the last year without committing any offences; a foreign citizen living in Georgia who is under the guardianship or custody of Georgian citizens; a foreign citizen where there is a reasonable assumption that he/she may be a victim of human trafficking as envisaged under the contemplation

²⁹ The rules on administrative detention are stipulated in Articles 244-247 of the Code of Administrative Offences.

³⁰ Article 62 of the Code of Administrative Offences.

³¹ Article 61 of the Code of Administrative Offences.

³² Articles Article 3 e) and 56 of the Law on Legal Status of Aliens and Stateless Persons.

³³ Article 50.8 of the Law on Legal Status of Aliens and Stateless Persons.

³⁴ Article 58.2 of the Law on Legal Status of Aliens and Stateless Persons.

³⁵ Article 58.3 of the Law on Legal Status of Aliens and Stateless Persons.

term of the Law of Georgia On Combating Trafficking in Human Beings. All these persons may be expelled only if state security or public order will be specifically harmed.³⁶

As a general rule, the law provides for a list of the circumstances which should be taken into consideration while making a decision on expulsion. These are: length of legal stay in Georgia, personal, social, economic and other links of the person with Georgia; possible consequences of the expulsion of a foreign citizen for his/her family members or persons permanently living with his/her.³⁷

The Law on Refugee and humanitarian status³⁸ provides for guarantees against forced return for refugees, asylum seekers and persons holding humanitarian status. According to this law, Georgia sees itself obligated not to expel these persons to any state where his or her life and liberty are in danger for reasons of race, religion, denomination, nationality, membership of a particular social group or political opinion, or due to violence, foreign aggression, occupation, internal conflict, widespread human rights violations or other significant violations of public order.³⁹ In addition, it is prohibited to expel or extradite a person holding refugee or humanitarian status to another State where there are reasonable grounds for believing that he or she would be in danger of become a victim of torture or other cruel, inhuman or degrading treatment or punishment.⁴⁰

Conclusion

Georgian legislation in the field of migration is generally very liberal. This kind of approach finds its expression in the provisions on return from Georgia too. Though the legislation imposes an obligation on foreign citizens to leave the territory of Georgia before the expiry of the term of legal stay in Georgia, they get an additional 10 days within which they may leave Georgia without any legal consequences. Even after the 10 days term foreigners are allowed to leave Georgia voluntarily with the payment of a fine. Legislation establishes only two levels of fine: overstay for the period of 10 days up to 3 months and overstaying for over 3 months. The fact there is this option and the low fine in place (180 GEL/360 GEL is equal to 82 Eur/164 Eur) undermines the deterrent effect of these provisions. Besides, as to the consequences there are no difference between expulsion and forced expulsion. In both cases, a foreign citizen who has been expelled from Georgia will be *denied a visa and a residence permit and refused* entry to Georgia for one year. This provision does not facilitate voluntary departure within the term set by the Ministry of Justice.

³⁶ Article 58.4 of the Law on Legal Status of Aliens and Stateless Persons.

³⁷ Article 58.5 of the Law on Legal Status of Aliens and Stateless Persons.

³⁸ Adopted on 6 December 2011. www.matsne.gov.ge, 111220009, 20/12/2011. Entered into force on 18 March 2012.

³⁹ Article 21.1 of the Law on Refugee and humanitarian status.

⁴⁰ Article 21.3 of the Law on Refugee and humanitarian status.

**Readmission, Return
and Reintegration in Georgia**

NATIA CHELIDZE

Socio-Political Module

Introduction

It is now two years since the enactment of the Agreement between the European Union and Georgia concerning the readmission of persons residing without authorization. In this context, it may be interesting to discover whether the expectations regarding the threat of mass deportation of irregular Georgian migrants which arose during the negotiation period have been justified. According to one segment of the society and political groups in Georgia¹, the en masse forcible return of migrants to a country with an estimated unemployment rate of 32%² (as assessed by experts) would generate economic challenges for these people and their families; moreover, it would also place a heavy burden on the country as a whole. Nor is the assumption, which holds that the EU-Georgia Agreement would serve to further impair the poor conditions in which irregular labor migrants residing in the EU countries live and work, groundless. This can be explained by the fact that the attitude of a foreign employer towards such persons might become stricter, and that he/she could be expected to increase pressure upon them³.

The other part of the aforementioned society and political groups is well aware that the coming into effect of the agreement concerning visa facilitation procedure s between the European Union and Georgia was dependent upon the signing and introduction of the readmission agreement. Both treaties can be regarded as a transition step to a new phase of the relationship between Georgia and the EU.

The readmission agreement will have at least some effect upon the labor migration vector and forms of migration. It can make the illegal entry of labor migrants to EU territory more difficult. Nevertheless, large-scale readmission from the EU is unlikely to occur in the immediate future, since, regardless of whether Georgian nationals have entered a destination country without officially crossing state boundaries or have done so legally, by using a short-term visa, after the expiration of which they remained illegally on the territory of the EU, most of migrants tend to destroy their personal identification documents. Under these circumstances, it would be complicated to verify the identity of these irregular migrants and readmit them to Georgia unless modern identification indicators (biometric passports and fingerprints) are applied⁴. In addition, the destination countries are themselves interested in benefiting from cheap services, provided by irregular labor migrants. Therefore, it is unlikely that the employers will be willing to disclose their identities.

The agreements between the European Union and Georgia on the readmission of persons residing without authorization, and on the facilitation of visa issuance procedures, in force since March 1st, 2011, have resulted from the successful cooperation under the Mobility Partnership and Eastern Partnership initiatives.

¹“The Labourists against the Readmission Agreement”, 01.03.2011. Available

<http://www.novisa.ge/novisa/?m=201103&lang=ka>, March, 2012; “The number of the deported people from abroad will increase this year”, *Rezonansi newspaper*, 23.02.2011, N. 045 (6623); “Visa facilitation will complicate the life for most of Georgians”, *Rezonansi newspaper*, 01.03.2011, N.051 (6629).

² M. Tukashvili; M. Tsartsidze; T. Antadze; N. Latsabidze; M. Shelia; M. Toria. *Internally Displaced Persons in the Georgian Labour Market* (DRC, Tbilisi, 2012), 7.

³ *Visa Facilitation and Readmission: Visa Liberalization Prospect*. Final report (OSI, European Initiative-Liberal Academy Georgia, 2012), p.68.

⁴ *Visa Facilitation and Readmission: Visa Liberalization Prospect*, 2012, p.72.

The readmission agreement obliges both Georgia and the EU Member States to promote the effective implementation of readmission of their nationals as well as third-country nationals. Under Presidential Decree No. 225 “On the implementation of the agreements concluded by Georgia with regard to the readmission of persons residing without authorization” (26.04.2011), the Georgian Ministry of the Interior has been assigned to execute the organizational and procedural issues related to this agreement, and to coordinate the activities of other respective agencies, which, inter alia, include the Ministry of Foreign Affairs, the Ministry of Justice and the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia. The resolution of the Minister of Interior (02.05.2011, #367) has amended the internal regulations for the patrol police and established an international liaison department within the second department of the ministry dealing with readmission issues. Based upon the joint resolution of these four ministries “on approval of the regulations for the implementation of the readmission agreement” (12.03.2012. #185, 35, 63, 22), the functions of these ministries regarding the execution of their respective duties have been prescribed. The readmission agreement defines the readmission procedures, terms, forms of transfer and types of transportation rather concisely. It should be noted that the reimbursement of all transportation and transit expenses associated with such readmissions, have been assigned to the requesting state.

The agreement also considers drafting an implementing protocol on certain issues. The Georgian government shall draft the implementing protocol in cooperation with several EU countries under a bilateral regime. Currently, negotiations with Poland, Austria, Estonia, the Benelux countries, the Czech Republic and Slovakia are taking place, and similar agreements have already been signed with Hungary and Bulgaria⁵. Under the EU-Georgia readmission agreement, a joint readmission committee consisting of representatives of the European Union and Georgia has been established. Based upon a request of one of the parties to the agreement, the committee can meet once every six months, and its decisions are binding for all parties involved.

In order to promote the implementation of the agreement, several projects are being carried out with the participation of the EU:

The IOM project “Support to the Authorities of Georgia in the Implementation of the Readmission Agreement with the European Union” provides for the development of a computer program and related hardware, the preparation of civil acts, and the delivery of technical equipment for relevant agencies, as well as the training of personnel and the organization of coordination meetings;

Since May 2011, the International Center for Migration Policy Development⁶ has carried out a project aimed at supporting the relevant institutions operating in Moldova and Georgia in the process of effective implementation of the visa facilitation and readmission agreement. For the purpose of ensuring the compliance of their activity, including the issuance of documents and the performance of procedures, with international standards, the project offers trainings of personnel, employed at these institutions.

In addition, the cooperation of the Georgian side with FRONTEX (The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union), ongoing within the framework of the readmission and mobility partnership programs, is worth mentioning. In April 2008, a draft agreement was signed, and in October 2008, a two-year action plan was elaborated. Both documents consider taking measures against illegal migration and illegal crossing of borders as well as improving cooperation with the relevant EU agencies.

⁵ Interview with Dali Bregvadze, head of the International Liaison Unit of the Second Department of the Ministry of Interior’s Patrol Police. The interview took place in the respondent’s office, in the building of the Ministry of Interior in January 2013.

⁶ Available <http://www.icmpd.org/>, January, 2013.

Another project, namely, 'Targeted Initiative Georgia', is being financed by the European Union within the Mobility Partnership program. It mainly aims at supporting the reintegration of the Georgian nationals returned from abroad, and to conduct an information campaign.

Under the readmission agreement, the signature parties assume the obligation to readmit their own, or third-country, nationals that are subject to the readmission conditions. Nevertheless, until today, **Georgia has not received a single request for readmission of third-country nationals**⁷. Irrespective of the fact that Georgia maintains a visa-free regime with many countries, the receipt of such requests is unlikely to occur, since Georgia does not share common land boundaries with the EU countries, while the probability of a direct illegal entry from Georgia to the territory of the EU Member States via air and sea transportation is minimal due to the relevant operative border control mechanisms.

Georgia has pursued a liberal visa policy since June 1, 2006, when the Law on the Legal Status of Foreigners was introduced. Under this law, visa restrictions have been removed for nationals of the EU member states and many other countries of the world. Such persons are also granted a right to enter and move freely across the territory of Georgia for a 90-day term. Later, this term was extended to 360 days. Currently, the citizens of over 80 countries may enter and stay in Georgia without a visa or any other additional documents for almost a year. Furthermore, the Georgian liberal labor legislation does not contain any restrictions or regulations regarding the employment of foreign nationals. As a result, it is difficult to identify those EU nationals, who reside in Georgia illegally⁸, and **no application for readmission had been submitted from Georgia to any EU country since the existence of the agreement**⁹. According to the data provided by the information-analytical department of the Ministry of Interior of Georgia, 675 citizens of various countries were denied access to Georgia in 2009, in 2010- 2041 citizens, in 2011- 1842 citizens and in 2012- 1021 citizens. Of them, mostly nationals of Russia, India, Nigeria and the Ukraine were denied access to enter the country during all these four periods. The primary reason for these rejections was the absence or the irregularity of documents.

Based on the data submitted by the international relations unit of the second department of the Ministry of Interior's patrol police of Georgia, within the readmission agreement between the EU and Georgia, 758 applications for readmission were submitted by March 1, 2012; 66 were rejected, and 53 out of 838 applications submitted from March 1, 2012 until the end of December 2012, were rejected. Most requests for the readmission of Georgian nationals were submitted by the following countries: Germany, Austria, Greece, the Netherlands and Belgium. In 2011, 112 persons were readmitted to Georgia (41 from Poland, 23 from Germany, 10 from Austria, 6 from Greece, etc.); in 2012 - 142 persons (30 from Greece, 25 from Poland, 23 from Germany, 17 from Austria, etc.). These data according to various countries differs slightly from the data on the readmitted persons available at the mobility center, which states that 232 persons have been readmitted during the past two years¹⁰.

Georgia signed readmission agreements with Germany (2008), Italy (signed in 1997; however, it did not come into effect), Latvia (2009), Bulgaria (2003), Switzerland (2005) and Norway¹¹ (November 2011). No recorded statistics regarding the number of Georgian nationals returned from these countries before 2011 are available. As for Ukraine, Norway and Switzerland, respectively, 3, 4 and 2 Georgian nationals have returned within the framework of the bilateral

⁷ Data as of January 2013 provided by the international liaison unit of the second department of the ministry of interior's patrol police.

⁸ *Visa Facilitation and Readmission: Visa Liberalization Prospect*, 2012, p.70.

⁹ Data as of January 2013 provided by the international liaison unit of the second department of the ministry of interior's patrol police.

¹⁰ Data provided by the mobility center established under the Targeted Initiative Georgia project. Available http://www.informedmigration.ge/en/index.php?about_TIG, January, 2013.

¹¹ Interview with Dali Bregvadze, head of the International Liaison Unit of the Second Department of the Ministry of Interior's Patrol Police.

readmission agreements¹². In comparison with these data, the indicators of deportation for the citizens of Georgia from various countries have been rather high during the last four years as well as during the period from 2003 to 2007. For instance, in 2006, 3,500 Georgian nationals¹³ were deported en masse from the Russian Federation).

Deportation of Georgian nationals according to various countries and years¹⁴

2009		2010		2011		2012	
Country	Number of deported people	Country	Number of deported people	Country	Number of deported people	Country	Number of deported people
Russia	324	Poland	321	Turkey	716	Turkey	3086
Ukraine	204	Greece	307	Russia	325	Russia	329
Poland	155	Russia	282	Poland	141	Greece	168
Germany	154	Germany	204	Greece	131	Poland	144
Greece	142	Ukraine	118	Germany	124	Germany	135
France	70	Israel	90	Israel	123	Israel	108
Czech Republic	69	Spain	88	Belorussia	110	Cyprus	106
Austria	69	Austria	74	Ukraine	60	Ukraine	81
Switzerland	69	Switzerland	70	US	31	US	27
Israel	53	Belorussia	68	Spain	55	France	73
Turkey	46	Italy	16	Switzerland	49	Spain	62
Azerbaijan	11	Azerbaijan	12	Austria	47	Austria	61
US	4	Turkey	8	Azerbaijan	4	Azerbaijan	5
Other countries	208	Other countries	351	Other countries	293	Other countries	466
Total	1578		2009		2209		4851

The elaboration of the national policy of migration remains a challenge. Because of the change of government in Georgia, the adoption of the strategy for migration was delayed for some time and ultimately, it was approved in March 2013. The action plan for the national strategy of migration (2013-2015) is still in the process of development¹⁵. It contains detailed specific activities for the legal provision of the performance of the obligations assumed under the readmission agreement, and for the decent reintegration of returnees. According to the action plan, the following agencies have been defined as the main administrative entities responsible for the implementation: the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, the Civil Service Development Agency of the Ministry of Justice, the State Minister's office in Diaspora Issues, the Ministry of Culture, the Ministry of Education and Science, the National Center for Quality Education Development, and the Ministry of Finance. The state budget has been defined as the main source of funding the relevant activities in this direction.

¹² Data provided by the mobility center established under the Targeted Initiative Georgia project. Available http://www.informedmigration.ge/en/index.php?about_TIG, January, 2013. Data provided by the information-analytical department of the ministry of interior.

¹³ *Visa Facilitation and Readmission: Visa Liberalization Prospect*, 2012, p.75.

¹⁴ Data provided by the information-analytical department of the Ministry of the Interior.

¹⁵ An interview with Natalia Chubinidze, representative of the Governmental Commission of Migration. The interview took place in the respondent's office, in the building of the Ministry of Justice in January 2013.

Below are selected paragraphs from the draft version of the national strategy for migration:

4.4. Support for the decent return and reintegration of Georgian nationals

4.4.1 Ensure the implementation of provisions of the international agreements and readmission agreements, implementation of minutes and national legislation with regard to the return of Georgian nationals;

4.4.2 Reintegration of Georgian nationals:

4.4.2.2 Raising awareness regarding the possibilities of reintegration;

4.4.2.3 Acknowledgement of education and vocational skills, obtained abroad.

Full support to the returnees under the readmission agreement for their comprehensive integration within the society has also been reflected in the document “Basic Data and Directions of the Country for 2012-2015” approved by the government of Georgia.

Several targeted projects aiming at supporting the reintegration of returning migrants have been carried out in Georgia¹⁶. Amongst these projects, Targeted Initiative for Georgia, a project ongoing under the Mobility Partnership Agreement¹⁷ signed between Georgia and the European Union in November 2009, should be mentioned. Officially launched on December 16, 2010, it seeks to facilitate the implementation of the EU-Georgia readmission agreement and the reintegration of Georgian citizens, returned from foreign countries. Supported by the European Union and joined by 15 institutions from 9 EU countries (Belgium, Czech Republic, France, Germany, Italy, The Netherlands, Poland, Romania and Sweden) under the management of the Ministry of Internal Affairs of the Czech Republic, this Program also involves the Tbilisi Mission of IOM and several local authorities of Georgia. The total budget of the project is 3,020 million Euro. The European Union has allocated 3,000,000 Euro for the purposes of project, and the Italian Ministry of Labor, Health and Social Protection has allocated 20,000 Euro. The program is designed to operate for 3 years and has the following goals:

1. *To enhance the potential:* increase the capacities of local authorities in migration sphere, which, inter alia, includes the improvement of the legal basis and the elaboration of a relevant policy;
2. *To provide assistance to returning migrants in Georgia:*

In order to help the returning migrants with their reintegration under the project, a Tbilisi Mobility Center¹⁸ has been established at the Ministry for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia. The Center renders its services to the Georgian migrants, who are returning to Georgia (not only from the European Union countries) voluntarily, forcibly or via the readmission procedures, and provides them with the following support:

- Elaboration of an individual reintegration plan;
- Provision with temporary accommodation and emergency medical assistance;
- Designation of specialized training courses for vocational education and covering its costs in some cases;
- Development of business plans and allocation of funds for their implementation in some cases;
- Employment;

¹⁶ The Targeted Initiative Georgia project under the Mobility Partnership agreement signed between Georgia and EU in 2009; Program for the professional personnel returned to the homeland – International Center for Migration CIM/GIZ.; “Integration of Georgian Migrants into Labour Market” – a joint initiative for migration and development of the Euro Commission and UN, 2009-2011; voluntary return and reintegration projects by IOM Tbilisi Mission. Available www.iom.ge, Januari, 2013.; DRC Danish Refugee Council “Returning Migrants Reintegration in Georgia”, 2012.

¹⁷ Available http://www.informedmigration.ge/en/index.php?about_TIG, February, 2013.

¹⁸ Available <http://www.informedmigration.ge/en/index.php?centre>, February, 2013.

3. *Information campaign:*

The Mobility Center consultants focus upon the cooperation with the persons responsible for the implementation of the EU-Georgia readmission agreement, and provide migrants with information on the available reintegration opportunities prior to their return. After their readmission, the center cooperates with the local authorities and non-governmental organizations in order to provide information and offer support to the beneficiaries.

The information campaign aims at providing potential Georgian migrants with information on legal migration opportunities available throughout Europe. A special emphasis is put on specific initiatives for legal labor migration, such as circular labor migration schemes and awareness-raising with respect to the risks of illegal migration. The information campaign is carried out by engaging with other means of mass media, and by applying the web-portal www.informedmigration.ge, financed by the European Union and maintained with the support of IOM. The Mobility Center collaborates actively with migration, information and consultation centers of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, operating in the following towns in the four regions in Georgia: Tbilisi, Gori, Kutaisi and Zugdidi. In case of necessity, as defined in the draft version (as of 14 December 2012, N.1) of the National Strategy Action Plan for Migration (2013-2015), the Mobility Centers can be merged with the regional centers. The Mobility Center also cooperates extensively with two centers operating under the IOM “Job counseling and placement project” in Tbilisi and Kutaisi, at which Mobility Center consultants have been employed.

Nowadays, the Mobility Center has registered 1,159 returnees, of which 232 have returned under the readmission agreement, 342 - forcibly, and 585 - voluntarily. This number includes 2 migrants from Switzerland and 4 - from Norway, returned under the bilateral readmission agreement operating beyond the Georgia-EU readmission agreement. Most migrants registered at the center who were returned forcibly, come from Poland, Greece and Austria, while those returned voluntarily come from Greece, Germany and the Ukraine; this could be ascribed to the availability of IOM’s voluntary return programs in Georgia.

The persons registered at the mobility centers are offered a variety of support: 764 returned migrants have been consulted, 344 persons went through vocational training, and 216 persons have been referred to employment units. 51 person received funds for financing business plans, 17 persons have been given medical aid, and 12 persons have been provided with temporary accommodation, etc.

Since 2003, IOM implements a Migrants Voluntary Return and Reintegration Project, which currently comprises 24 programs with participation of 19 EU member and candidate countries, as well as Switzerland, Norway, Ukraine, Belarus and Canada, participate. The beneficiaries of the project are:

- Persons whose applications for asylum were either rejected or withdrawn;
- Foreign migrants, who remain in the country of residence;
- Victims of trafficking, and
- Other vulnerable groups, including unaccompanied migrant children, or those with health-related needs.

The reintegration packages, which comprise free travel, vocational training, support in small business start-ups, and the provision of temporary accommodation and medical assistance, vary from country to country. Until today, over 1,600 persons have received reintegration assistance from the IOM office in Georgia. As a result, over 100 persons have found jobs, 580 persons have either started or expanded small businesses, 115 persons have received medical aid, 72 persons participated in vocational training courses and 66 families have been provided with temporary accommodation (from 6 to 12 months on average, in the form of rent or mortgage). The IOM offices operating in the countries of destination reimbursed travel costs for approximately 400 citizens and helped them put their travel documents in order. The reintegration assistance is mainly funded by the government of the country of destination. In most cases, the funds are allocated by the European Union. The return is

organized by an IOM office of the country of destination. It decides upon the program under which migrants can return to Georgia. After a migrant enters the IOM office in Georgia, individual reintegration business plans are drafted; each of these plans shall be assessed and approved by a donor. Only after going through this procedure, will the funds be allocated to the IOM office of Georgia, which, for its part, will assign them to beneficiaries based upon their approved business plans. Due to the nature of the project, it is impossible to identify the number of Georgian nationals returned under the readmission agreement within the available statistics on the beneficiaries of the IOM Voluntary Return Project.

**Statistics on Georgian Citizens Supported under the Voluntary Return Program
(for 2003-2013)¹⁹**

Place	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Poland	0	0	0	1	0	0	186	227	86	102	3	605
Switzerland	0	0	0	37	46	56	68	45	33	51	1	337
United Kingdom	3	8	24	41	31	23	26	25	13	10	0	204
Ireland	0	0	0	3	13	10	35	38	32	19	0	150
Belgium	0	0	0	0	4	4	19	30	24	44	1	126
Latvia	0	0	0	0	0	0	4	7	51	63	0	125
Netherlands	0	0	0	0	0	0	0	69	18	23	2	112
Czech Republic	8	13	56	18	4	2	1	0	0	0	0	102
Belarus	0	0	0	0	0	0	32	27	9	0	0	68
Austria	0	0	0	0	0	0	0	0	10	39	0	49
Slovakia	0	0	0	0	0	0	4	18	4	1	0	27
Norway	0	0	0	0	0	0	2	7	5	9	0	23
Lithuania	0	0	0	0	0	0	0	7	1	5	0	13
Other	0	0	0	0	1	3	2	14	27	47	0	94
Total	11	21	80	100	99	98	379	514	313	413	7	2035

Within a small-scale reintegration program ‘Returned Migrants Reintegration in Georgia’²⁰ implemented by the Danish Refugee Council, 54 returnees of the 248 applicants participating in a competition held in 4 regions of Georgia: Imereti, Racha-Lechkhumi, Guria and Samegrelo in 2012, were selected. They have been provided with individual consultations on improving their business management skills, and assigned grants for starting and operating small and medium enterprises. Consequently, they have obtained an opportunity to either set up new or to develop already existing businesses and thus, to facilitate the reintegration process in Georgia. This project was financed by the European Union, which allocated approximately 3,000 euro as an entrepreneurial grant for each participant.

¹⁹ Available <http://www.informedmigration.ge/en/index.php?reintegration>, February, 2013.

²⁰ Chelidze N. “Vocational Reintegration Problems of Returned Migrants in Georgia”. *Journal Migration* 5 (2011):124. TSU.

One of the criteria of an applicant's selection was the length of his/her stay as a migrant. According to the applicable requirements, this term should have been shorter than two years, and additionally, the migrant should have returned home in the last two years (in 2010-2012). As a result, it is impossible to differentiate the selected applicants according to the following criteria: whether a migrant's return was his/her personal choice or not, or whether he/she decided to return under the readmission agreement or by using any other route.

The project is proceeding successfully, since it was preceded by a strict and long selection process, which included: application assessments, field visits to the applicants, documents checkups, interviewing and training courses for the pre-selected applicants during the selection period. The last of these was intended to help them improve their business management skills and present clear realistic business plans. Participation in the project was associated with meeting a few conditions, inter alia, including co-financing, in particular, the allocation of 20% of total funds by the beneficiaries. The success of the project has further been confirmed by the outcomes of monitoring of the applicants' businesses on a regular basis.

From March 2013, the Danish Refugee Council plans to undertake a new, even smaller reintegration project by using the potential of the diaspora. Overall, 20 innovative business proposals will be selected and funded throughout Georgia.²¹

According to some studies²², the beneficiaries of the three projects stress the scarcity of the funds allocated. Also, notwithstanding the successful realization of the projects, the number of beneficiaries is small, and their reintegration is progressing slowly.

²¹ An interview with Varlam Chkuaseli, a coordinator for the Danish Refugee Council projects. February, 2013. The respondent was interviewed by phone.

²² *Socio-economic problems of return migration in Georgia*. Research report by the TSU Migration Research Center under the guidance by Tukhashvili M. (DRC, 2009). *Labour Market and Reintegration of Returned Migrants* (carried out by TSU Migration Research Center under the guidance of Tukhashvili M.) (DRC, 2012).

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CHAPTER 6

Trafficking in The Human Beings

Trafficking in Armenia

RUBEN YEGANYAN

Demographic and Economic Module

Armenian citizens have high levels of migration activity, so the country inevitably has experience human trafficking. Armenians are subjected to human trafficking both at home and in their acts of emigration. In some cases immigrants from other countries get pulled into domestic trafficking, mostly women involved in prostitution. Most trafficking cases registered in Armenia over recent years dealt with the sexual exploitation of women (including minors), both abroad and in Armenia, and the labor exploitation of Armenian citizens in Russia.

The country has legislation in place to combat trafficking. For instance, there are three articles in the Armenian Criminal Code that deal directly with trafficking in human beings and several articles that touch upon it indirectly (see the note prepared by Petros Agababyan).

In 2007, following the decision of the Armenian Government¹, the Council on Human Exploitation (trafficking) was established in the country for the systematization and coordination of efforts to combat this phenomenon. The Council on Human Exploitation is chaired by the Deputy Chairman of the Armenian Government and many important Armenians sit on it: the Armenian ministers of foreign affairs, labor and social affairs, finance, economy, healthcare, justice, sports and youth affairs, education and science; the deputies of the Prosecutor General; the Director of the National Security Service; the head of Police; as well as the head of the foreign affairs division of the Presidential Administration and head of the State Migration Service of the Ministry of Territorial Administration.

Representatives of non-governmental organizations dealing with this issue (Hope and Help, Democracy Today, UMCOR Armenia, Man in Trouble, Armenian Assistance Union, World Vision Armenia, Audio-Visual Reporters Association etc.) are invited as observers and take an active part in the council meetings. In addition, representatives of international organizations also get invited to the council meetings, namely: Armenian office of the UN Children's Fund, International Organization for Migration, International Labor Organization, Yerevan office of OSCE etc.

The interagency working group was established to manage the routine activities of the council. The head of this group (the head of international organizations division of the Armenian Ministry of Foreign Affairs) is also in charge of the implementation of requirements put forward in the Council of Europe Convention on Action against Trafficking in Human Beings drawn up by the Group of Experts on Action against Trafficking in Human Beings (GRETA). This interagency group engages experts of all the above-mentioned Armenian agencies; it also actively cooperates with representatives of the above-mentioned non-governmental and international organizations. There is, too, a legal subgroup that develops draft legislative amendments.

According to the data of the Armenian police, 14 cases dealing with trafficking and exploitation were processed in 2011 (Criminal Code article 132 - "Human trafficking or exploitation" and 132² - "Trafficking or exploitation of a child or person who due to a mental disorder cannot comprehend the essence and meaning of his or her actions or control them"). Five of these cases had been initiated earlier, three cases were resumed because wanted persons had been found, one case was reclassified as a trafficking case, and only five cases were initiated in 2011.

Out of 14 cases 10 dealt with the sexual exploitation of women, in only four of which exploitation occurred outside Armenia: three cases in the United Arab Emirates, and one case in Turkey. The rest of the cases dealt with the labor exploitation of Armenian citizens in Russia. 13 persons were acknowledged as complainants in these cases, 12 of them women. Out of 13 persons six were minors at the time of the crime. As of 01.01.2011, 17 persons were on the wanted list in connection with these proceedings. In the course of the year five persons were found, four more persons were declared "wanted". In addition to that, 32 new criminal cases were initiated in the course of 2011 in relation to

¹ Regulation of Armenian Government #861-A, of 7 December 2007.

Criminal Code articles 261 (“Engagement of another person in prostitution for profit”) and 262 (“Promotion of prostitution”), 45 crimes were solved, two of which involved underage persons².

22 criminal cases were processed in relation to Criminal Code articles 132, 132² and 132³ in 2012 (“Using services of an exploited person”). Three of them had been initiated earlier, three cases were resumed, because wanted persons had been found, one case was reclassified as a trafficking case, and 16 cases were initiated in 2012.

Out of 16 new cases 11 dealt with sexual exploitation of women, only three of which occurred outside Armenia (all in Turkey). The remaining five cases were related to the exploitation of a minor by way of beggary (one case), extraction of human organs (one case), labor exploitation (two cases), and using services of an exploited person (1 case). In these cases 13 persons were acknowledged as complainants, 12 of them women. Out of 13 complainants six were underage at the time of the crime.

In the same year 2 criminal cases were initiated in relation to the Criminal Code article 166 (“Engaging a child in prostitution or activities associated with production of materials or items of pornographic nature”). Five perpetrators and two complainants were dealt with in these cases related to offenses that occurred in Armenia. Three more cases were initiated in relation to the Criminal Code article 168 (“Buying a child to take this child under care or selling a child to transfer the care”). Finally, 35 new criminal cases were initiated in 2012 in relation to Criminal Code articles 261 (“Engagement of another person in prostitution for profit”) and 262 (“Promotion of prostitution”)³.

Considering these quantitative data, one should not forget that this is only a small fraction of the large-scale phenomenon that came under the purview of Armenian law enforcement agencies. Despite the absence of relevant research data⁴ and expert estimates (at least we failed to find them), this point of view is shared by specialists from practically all agencies, including governmental ones, dealing with human trafficking. Let us note that this fact is also mentioned in the GRETA report of 2012⁵.

Over recent years a lot of work has been done in Armenia by all official organizations and agencies that deal, to a lesser or greater extent, with human trafficking, as well as by non-governmental and international organizations. There are numerous programs, mostly joint ones, involving both official agencies, as well as non-governmental and international organizations, with the purpose of: training personnel of organizations and agencies; informing the population and especially the high-risk groups; offering necessary consultations and information, medical, psychological, legal and financial assistance to human trafficking victims; and contributing to their reintegration. Detailed and complete lists of these programs indicating the number of persons involved etc. can be found in official documents of the Armenian Government and its Council on Human Exploitation (trafficking).⁶

² “On work undertaken in 2011 in the Republic of Armenia to combat human exploitation (trafficking)”. Report of the working group of the Council of the Republic of Armenia on Human Exploitation (trafficking).

³ “On work undertaken in 201w in the Republic of Armenia to combat human exploitation (trafficking)”. Report of the working group of the Council of the Republic of Armenia on Human Exploitation (trafficking).

⁴ Only one special selective survey on trafficking was carried out in Armenia. It was carried out by the ILO in 2008. Unfortunately the results of this survey caused controversy between the ILO and relevant official bodies of the country, as a result of which they were not published.

⁵ “Public officials and NGO representatives met during GRETA visit to the country acknowledged that actual scale of human trafficking in Armenia was higher than official figures”. “Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Armenia First evaluation round.” G R E T A Group of Experts on Action against Trafficking in Human Beings Strasbourg, 21 September 2012, p. 10.

⁶ Report. “On implementation by the Republic of Armenia of the Council of Europe Convention on Action against Trafficking in Human Beings”. Appendix to protocol decision of the Armenian Government meeting of 28 July 2011 No. 21 “On work carried out in 2011 in the Republic of Armenia to combat human exploitation (trafficking)”. Report of the working group of the Council on Human Exploitation (trafficking). “On work carried out in 2012 in the Republic of Armenia to combat human exploitation (trafficking)”. Report of the working group of the Council on Human Exploitation (trafficking).

At the same time one should note that what is done and has been done is apparently not enough. We believe that today there is a serious problem with trafficking detection, especially in cases involving labor migrants. Comparing the number of persons involved in this process to the number of trafficking cases detected in their environment, one can unequivocally conclude that only a small fraction of persons subject to labor exploitation are identified. This may be due to the fact that most persons subjected to labor exploitation do not see much practical sense in making a statement or reporting it to law enforcement agencies: a statement, after all, does not guarantee any moral or material compensation, and it is associated with inevitable complications. Obviously this should be changed.

**Legal Aspects of the Fight Against Human
Trafficking in the Republic of Armenia**

PETROS AGHABABYAN

Legal Module

International legal basis

The Republic of Armenia joined a number of international and regional legal instruments combating human trafficking:

- United Nations Convention against Transnational Organized Crime¹ and its Protocols² against the Smuggling of Migrants by Land, Sea and Air and to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
- United Nations Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography³
- Council of Europe Convention on Action against Trafficking in Human Beings dated 16 March 2005⁴
- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography of United Nations Convention on the Rights of the Child (entered into force on 30.07.2005);
- Hague Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoption (Hague Adoption Convention) (entered into force on 01.06.2007);
- European Convention on Extradition dated 13.12.1957 (entered into force on 25.04.2002);
- European Convention on Mutual Assistance in Criminal Matters dated 20.04.1959 (entered into force on 25.04.2002);
- Interdepartmental Agreement on Co-operation of Implementation of Criminal Crimes dated 12.09.1998 (entered into force on 01.05.1999)
- Minsk Convention “On Civil, Family and Criminal Law Issues Legal Assistance and Legal Relationships” dated 22.01.1993 (entered into force on 21.12. 1994);
- Chisinau Convention “On Civil, Family and Criminal Law Issues Legal Assistance and Legal Relationships” dated 07.10.2002 (entered into force on 19.02.2005);
- Agreement on the Cooperation of the CIS Member States in Combating Trafficking in Persons, Human Organs and Tissues (entered into force on 04.09.2006);

In December 2009, the Republic of Armenia signed a Memorandum⁵ of Understanding with the United Arab Emirates on combating human trafficking. The Memorandum relates to the issues on combating human trafficking, the protection of victims and provides the necessary assistance to them.

Domestic legislation

According to domestic legislation human trafficking is considered a crime against human beings. Taking into consideration that Armenia ratified the Council of Europe Convention on Action against Trafficking in Human Beings the RA Criminal Code was brought into compliance with the requirements of the Convention. Articles 132, 132.2 and 132.3 of the RA Criminal Code set out the criminal responsibility for trafficking in and exploitation of human beings.

¹Decision of the RA National Assembly N-333-2, adopted 25.03.2003, entered into force 19.04.2003, Source RA Official Bulletin 2003.04.09/18(253)

²Decision of the RA National Assembly N-334-2, adopted 25.03.2003, entered into force 19.04.2003, Source RA Official Bulletin 2003.04.09/18 (253)

³Decision of the RA National Assembly N-177-3, adopted 28.02.2005, entered into force 02.04.2005, Source RA Official Bulletin 2005.03.23/19 (391)

⁴Decision of the RA National Assembly N-067-4, adopted 20.03.2008, Source RA Official Bulletin 2008.04.09/22 (612)

⁵Adopted on 05.12.2009, entered into force 05.12.2009, Source Official Bulletin of the RA MFA 2009.12.30/11(19)

Article 132 (entitled “Trafficking in Human Beings or Exploitation”) of the RA Criminal Code sets the legal definition of human trafficking and the responsibility for committing such a crime. According to the aforementioned Article human trafficking is: the recruitment, transportation, transfer, harboring or receipt of persons for the purposes of exploitation, slavery or a condition equal to slavery or by means of forced labour or forced services .

In accordance with Article 132.2 of the Criminal Code the recruitment, transportation, transfer, harboring or receipt (trafficking) of a child, fully or partially realizing the nature and significance of the committed act due to his/her mental disorder is considered a criminal offence. Article 132.2 sets also the responsibility for using services rendered by victims of trafficking.

According to the second paragraph of Article 8 of the RA Law “On Foreigners”,⁶ the issuance (extension of the term) of an entry visa is refused, the issued entry visa is revoked, and the entry into the Republic of Armenia is blocked under certain conditions. These conditions are if a foreigner carries out activities, participates in, organizes or is a member of a human trafficking organization and/or an illegal border crossing organization.

In the context of combat against labour trafficking it is worth mentioning that the RA Labour Code⁷ contains articles prohibiting forced labour, violence against the employment of children under 14 years old.

RA Government Decree N 318-N⁸ “On State-Guaranteed Free Delivery of Medical Aid and Service”, dated 4 March, 2004 was amended by RA Government Decree N 1003-N⁹ dated 3 September, 2009. According to the aforementioned amendment victims of human trafficking were included in the list of socially insecure (needy) and separate (special) groups of people. These have the right to receive state-guaranteed free medical care and services in accordance with the state health target annual programs funded from the Armenian state budget.

RA Government Decree¹⁰ N 1385 –A (dated 20 November, 2008) was an approved national referral mechanism for victims of human trafficking. It defines a co-operative framework through which state actors fulfill their obligations to protect and promote the human rights of trafficked persons and to co-ordinate their efforts in a strategic partnership with civil society. National referral mechanisms mainly aim at providing services to the victims of human trafficking. These services include accommodation, professional medical and psychological assistance, counseling and the availability of education.

26 November, 2009 the RA Government adopted Decree¹¹ N 1358-N, which regulated the financial issues of providing psychosocial rehabilitation services to trafficking victims within state allocated funds.

The RA Government Decree¹² N 58-N, 15 January 2004, approved the Concept Paper on the prevention of the illegal transportation of people from Armenia, human exploitation and trading. It also approved the 2004-2006 National Action Plan on its implementation. The National Program covered fields such as: the improvement of legislation on human trafficking in the country; a survey on the extent of human trafficking within and outside the country; the implementation of preventive measures; the implementation of programs aimed at assisting and protecting the victims of human trafficking.

⁶ Adopted 25.12.2006, entered into force 03.02.2007, Official Sources: Official Journal of Armenia No. 6(530), 24.01.2007, amended 02.02.2010 (effective 13.02.2010)

⁷ Adopted 09.11.2004, Source: the RA Official Bulletin 2004.12.21/69(368)

⁸ Adopted 03.09.2009, entered into force on 17.09.2009, Source: the RA Official Bulletin 2004.04.07/20(319)

⁹ Adopted 03.09.2009, Source the RA Official Bulletin 2009.09.16/46(712)

¹⁰ Adopted 20.11.2008, entered into force 03.12.2008, was not published

¹¹ Adopted 26.11.2009, entered into force 10.12.2009, Source: the RA Official Bulletin 2009.12.09/63(729)

¹² Adopted 15.01.2004, entered into force 04.03.2004, Source: the RA Official Bulletin 2004.03.03/13(312)

By the RA Government Decree¹³ N1598-N the three-year program for 2007-2009 was approved. This program was mainly aimed at the criminalization of trafficking, something which was achieved. With this view a new Article was included in the RA Criminal Code, and sanctions were toughened by changing and amending separate articles of the Code.

The 2010-2012 National Program for the fight against human trafficking was approved by RA Government Decree¹⁴ N 1140-N of 3 September 2010. Likewise the schedule for the realization of the program, which stipulates steps in and the terms of the struggle against trafficking was approved at the same date. The Program includes strategies and action plans for the effective organization of the fight against trafficking.

And finally, the 2013-2015 National Program on the struggle against human trafficking in the Republic of Armenia and the schedule for the program was approved by RA Government Decree N 186-N of 28 February 2013. The first part of the Program is devoted to improvement of anti-trafficking legislation and issues related to implementation.

Institutional basis

An interdepartmental committee was set up in accordance with the RA Prime Minister's Decree¹⁵ N591-A of 14 October, 2012: its aim to study human trafficking issues. This committee consisted in representatives of the RA Ministry of Foreign Affairs, the RA Police, the RA Prosecutor General's Office, the RA National Security Service, the RA National Assembly, the RA National Statistical Service, the RA Ministry of Health and the RA Ministry of Territorial Administration.

By the RA Prime Minister's Decree¹⁶ N861-A of 6 December 2007 the Council on Trafficking in Human Beings in Armenia was set up in order to improve the efficiency of implemented actions. The RA Deputy Prime Minister, Minister of Territorial Administration, chairs the Council. Representatives of all the interested ministries and departments are members of the Council. An interdepartmental working group was set for organization of on-going activities of the Council.

Activities of separate state bodies include the following aspects of the action against trafficking in human beings:

- The RA Ministry of Labour and Social Affairs conducts surveys on trafficking related issues, develops social rehabilitation programs for the victims of trafficking, as well as carrying out the monitoring of the abovementioned programs.
- The RA Police works on the prevention and detection of trafficking and similar crimes.
- The RA National Security Service carries out the prevention and detection of the trafficking crimes.
- The RA Prosecutor General implements the investigation of trafficking cases and related crimes and looks at the lawfulness of the preliminary investigation, as well as protection of the accused party in the court.
- State Migration Service of the RA Ministry of Territorial Administration provides legal and advisory information to representatives of different migration flows (refugees, asylum seekers, people returning to Armenia and those wishing to leave Armenia.)

¹³ Adopted 06.12.2007, entered into force 07.02.2008, Source: the RA Official Bulletin 2008.02.06/8(598)

¹⁴ Adopted 03.09.2010, entered into force 23.09.2010, Source: the RA Official Bulletin 2010.09.22/45(779)

¹⁵ Adopted 28.02.2013, entered into force 14.03.2013, Source: the RA Official Bulletin 2013.03.13/14(954)

¹⁶ Adopted 14.10.2002, entered into force 24.10.2002, Source: the RA Official Bulletin 2002.10.23/45(220)

The RA Ministry of Justice also regulates legislative issues for the fight against human trafficking. The RA Ministry of Healthcare provides the victims of trafficking with the necessary medical treatment free of charge, the RA Ministry of Education and Science includes victims of trafficking in its educational programs. The RA Ministry of Sport and Youth Affairs, meanwhile, organizes thematic discussions, meetings, and training programs on the risks of trafficking. The RA Ministry of Finance takes part in drafting short and long-term programs on action against trafficking, as well as budget-related activities for adopted measures.

Non-governmental organizations have played an active role in this field, in particular, “Hope and Help”, “UMCOR Armenia”, “Democracy today”, the Armenian office of the Czech organization “People in Need”, the Armenian Relief Society and the Association of Audio-Visual Journalists.

Human Trafficking in Armenia

HAYKANUSH CHOBANYAN

Socio-Political module

1. The Evolution of anti-trafficking policies in Armenia:

The authorities of Armenia began to pay attention to trafficking in 2002, when, according to the annual report on the situation of trafficking in human beings presented by the U.S. State Department to Congress, Armenia was placed in the third group (**Tier 3**) of countries that do not fully comply with the minimum standards of the TVPA's (Trafficking Victims Protection Act of 2000) for the elimination of trafficking, and are not making significant efforts in this regard.

In fact, the organization of action against trafficking started that same year. An interdepartmental committee with the aims of studying issues related to illegal recruitment, and transportation, transfer and trafficking in human beings, and making recommendations was established in October 2002 following a decree by the Prime Minister of the RA. The committee was headed by the RA Ministry of Foreign Affairs and involved all the representatives of the relevant state bodies, experts from the staff of the RA National Assembly and the RA Government, as well as representatives of various NGOs. The committee drafted the Concept note on the organization of the action against trafficking in human beings from the RA. In 2004-2006, it also drafted a National Program, which was approved by the RA Government Decree N 58-N on January 15, 2004. This was the first document to define state policy related to the fight against trafficking in the RA. The National Program covered fields such as improvements to the legislation on trafficking in human beings, surveys on the extent of human trafficking into and out of the republic, implementation of preventive measures, implementation of programs aimed at assisting the victims of human trafficking and their protection.

In this period, the formation of anti-trafficking legislation took place on two levels: domestic, through the introduction of relevant changes to the RA Criminal Law, and international, through acceding to international agreements. Special divisions concentrated on the fight against trafficking were set in the RA Prosecutor's General Office and the RA Police.

The UN Convention against Transnational Organized Crime and its 2 optional Protocols (the Protocol against the Smuggling of Migrants by Land, Sea and Air, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children) were ratified.

Armenia also joined the UN Convention on the Rights of the Child and its optional protocol.

Armenia signed the Council of Europe Convention on Action against Trafficking in Human Beings on March 16, 2005.

As for the domestic legislation, on August 1, 2003, a new Article 132 "On trafficking in human beings" was introduced into the RA Criminal Code, which was edited in June 2006. It defines trafficking as a category of crime in more a precise and complete manner. The term "human trafficking" replaced the term "exploitation". A new Article 132 was added, which stipulated stricter penalties for the organizers of trafficking.

According to a report compiled by the U.S. State Department on trafficking in human beings, According to report of the U.S. State Department on trafficking in human beings, Armenia was transferred into the **Tier 2** from the **Tier 3** as a result of the undertaken measures.

Institutional changes were made with a view to increasing the efficiency of the implemented activities. The status of the structure/body coordinating the activities of the fight against trafficking in human beings was accorded more importance. Previously, the Committee dealing with trafficking was not authorized to coordinate the activities of other state bodies, the decisions made by the Committee were not mandatory for the ministries, and the relatively unimportant status of the members of Committee on Trafficking prevented effective implementation of the activities. The RA Prime Minister's Decree N 861-A of 6 December, 2007 established the Council on Trafficking in Human Beings in Armenia, which was chaired by the RA Deputy Prime Minister, the Minister of Territorial Administration. Representatives of all the interested ministries and departments are members of the

Council. An interdepartmental working group was established in order to manage the organization of the on-going activities of the Council.

Despite all the activities undertaken, the RA Council on Trafficking has revealed certain gaps in the 2004-2006 National Program. In particular, the activities implemented with the aim of revealing those persons carrying out trafficking and bringing them to justice require significant improvement.

All the above-mentioned solutions, as well as other issues related to the fight against trafficking were included in 2007-2009 National Program on the struggle against trafficking in human beings and the schedule of the realization of the Program, which was approved by the RA Government Decree N1598-N of 6 December 2007.

Secondly, the 2007-2009 National Program represented the logical continuation of the previous action plan. If the first National Program was mainly aimed at the creation of a necessary legislative field and the implementation of preventive measures, while assisting victims of trafficking and implementing programs for their protection, then the second National Program was mainly aimed at strengthening state efforts, particularly in the area of prevention and related initiatives. Being based on the internationally applicable 3P approach it mainly includes three pillars – prevention, prosecution and support – and their intersections.

One of the goals of the 2nd Program was conducting research on the phenomenon, which would enable to evaluate the current situation and emerging trends in trafficking.

The RA Government Decree N1385-N of 20 November 2008 on National referral mechanisms (NRF) for victims of human trafficking ensured a coordinated approach in the activities related to the fight against trafficking. The latter stipulates a co-operative framework through which state actors fulfill their obligations to protect and promote the human rights of trafficked persons and co-ordinate their efforts in a strategic partnership with civil society. The main aim of the NRF is defining effective way to provide services to the victims of human trafficking, including accommodation, professional medical and psychological assistance, and counseling, while ensuring availability of education.

While implementing the 2nd Program, public awareness amongst the population in general and mainly amongst groups risk, was raised by information campaigns and other measures involving mass media. This was further aided by professionally training of the state officials dealing with the phenomenon of trafficking directly or indirectly. Direct communication with the society was also emphasized, mainly with regard to the identification of victims, coverage of the support provided to the victims, and the development of tolerant attitudes on the part of the population towards victims of trafficking. During the implementation of the 2nd Program, many cases of internal trafficking, even trafficking of children, were tried by the criminal courts in the Republic.

Nevertheless Armenia continues to be a source country for the overwhelming majority of trafficking victims. The United Arab Emirates, Turkey and the Russian Federation remain the main destination countries.

Important steps were taken towards international cooperation during this period. Particularly, a memorandum of understanding on cooperation against human trafficking was signed between the Republic of Armenia and the United Arab Emirates in December 2009. Another memorandum of understanding was signed between RA Migration Agency and the Migration Service of the Russian Federation in 2009. This memorandum aims to regulate migration issues with regard to the workforce and to protect the interests of labor migrants.

The result of the steps taken was soon obvious: if in the reports on human trafficking by the US Department of State in 2005-2008 Armenia was permanently placed in the **Tier 2 watch list**¹, it was replaced to the **Tier 2**² in 2009 and has remained until 2012.

¹ Countries which do not fully comply with the TVPA's minimum standards but are making significant efforts

Taking into account the problems that emerged in 2007-2009 during the implementation of the national programs on combating trafficking, the 3rd National Program of 2010-2012 and the timetable of its implementation in accordance with the implementing indicators were elaborated by the Council on trafficking of the RA, which was adopted by the RA Government decree № 1140-N in 2010. The Program attached significant importance to the prevention of trafficking. Separate attention was paid to training and to the study of relevant actors. Special training courses were organized in the framework of the Program directed to the detection, identification, referral and support of persons subjected to trafficking, as well as prevention and detection of the crime. Aside from this, an independent monitoring of implementation of the Program was carried out for the first time in the framework of the 3rd Program, the results and recommendations of which have been taken into consideration during the elaboration of the 4th Program.

The 4th National Program on combating trafficking in the RA in 2013-2015 and its timetable were elaborated by the working group attached to the Council on trafficking during 2012³. It was approved by the RA Government decree № 186-N of 28 February 2013.

The 4th National Program includes the main directions of the previous Program, but at the same time, it is more concentrated in terms of its aims. The aim of the Program is to focus state efforts to a greater degree, especially with regard to the improvement of the identification and support mechanisms for victims of trafficking by implementing the necessary legislative reforms, as well as establishing financial basis and developing the capacities of the actors operating in the field. One of the aims of the 4th Program is to conduct studies/surveys on human trafficking including a short study on working children.

2. A brief description of most relevant projects and their outcomes

With the aim of preventing trafficking, various programs are being implemented by both state and international organizations. The most important programs should be highlighted:

- The International Organization for Migration with the support of the US Government has implemented the “Strengthening capacities of border control detachment of the National Security Service Border Guards of Armenia” program since January 2010, which aims at refining the border management systems in Armenia and promoting the decrease of illegal migration flows through the development of capabilities of border guards and related staff members. A regular and continuous training program was elaborated in the framework of the project, which includes a topic entitled “Prevention of trafficking”.
- An amendment was introduced in 2010 in the RA Government decree № 318-N on “State-guaranteed free medical care and service” from 4 March 2004, by which persons subjected to human trafficking were involved in the list of socially insecure and separate (specific) groups of population with the right to state-guaranteed free medical care and services.
- With the support of OSCE Yerevan office, an assistance and resource center against trafficking operates within the RA Ministry of Labor and Social Affairs.
- A program entitled “State support to the victims of trafficking” has been implemented since 2010 within the framework of the state social program of the RA Ministry of Labor and Social Affairs. It is being implemented together with the AMCOR organization. Primary assistance is provided to the victims, and recovery activities are being carried out for them in

² As Tier 2 but the number of victims is increasing or the countries do not provide evidence of increased efforts to tackle the problem or the country if making efforts to improve.

³ Report on “Activities carried out against human trafficking in the Republic of Armenia” of the working group adjacent to Council on trafficking of the RA, 2013.

the framework of the program through the provision of medical, social, and psychological assistance and counsel.

- A regional trial program, entitled “School education in Armenia, Georgia and Azerbaijan directed to prevention of human trafficking” was implemented in 2009-2010 within the program of understanding signed between the RA Ministry of Education and Science and IOM. “Trafficking” (a handbook for students) and “Trafficking” (a handbook for teachers) manuals were elaborated during 2009 in the framework of the program, and they were recommended for use by the National Institute of Education of the RA MES as support manuals for public high schools.
- “Strengthening awareness on trafficking in Armenia, Georgia and Azerbaijan through education”, a trial program was started in January 2012, with the support of the International Organization for Migration. This aims at enhancing the capabilities of ministries of education against human trafficking. The program will contribute to awareness-raising amongst students and lecturers of higher educational institutions, as well as the involvement of trafficking topics in the curricula of higher educational institutions.

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**The Problem of Human Trafficking
in Azerbaijan**

ARIF YUNUSOV

Demographic and Economic Module

The problem of human trafficking plays a significant role in migration flows from Azerbaijan. It was first addressed at the beginning of the early 1990s. The mass unemployment that followed the collapse of the USSR and the Karabakh conflict with Armenia led to the emergence of informal “slave markets” in the centre of the capital city, Baku, in the mid-1990s (in Azeri “gyl bazari”). These were gathering places for unemployed men, mostly refugees and internally displaced persons, who were prepared to take up any jobs, including jobs that involved forms of enslavement. At that time, a number of publications appeared in the national media documenting the trafficking of men, as well as women and children, from Azerbaijan, for the purposes of forced labour and enslavement (Yunusov, 194). However, such occurrences were perceived as an inevitable consequence of the unresolved Karabakh conflict and of “temporary” economic and social turmoil. Most importantly, these were of episodic character and so, did not attract much attention.

The socio-economic situation in the country continued to deteriorate, and this had a certain impact on women. In the late 1990s, the four male “slave markets” in the capital were joined by a fifth “female slave market” (in Azeri “gadin gyl bazar”). The market was located in the centre of the capital and, so, immediately attracted the attention of journalists who dedicated many essays to the theme of “female slaves” of post-Soviet Azerbaijan, prepared to take up any job or activity for money.

As a result, young Azeri women gradually began to replace men in migrant flows from the country. From 1997, young Azeri women began to attract the attention of many national marriage agencies, as well as employment agencies recruiting individuals for employment abroad. These agencies fraudulently brought women into Western European countries, where these women were, upon arrival, divested of their passports and where they were forced into prostitution in brothels, strip clubs and other such places.

However, human trafficking to Europe did not play an obviously important role. Basically, Azeri women preferred to go voluntarily, or were sent fraudulently, to the Muslim East. From the late 1990s onwards, reports about Azerbaijani women who were illegally engaged in prostitution in Turkey, the UAE, Syria, Iran and occasionally Pakistan, came more and more frequently from Muslim countries in connection with Azeri citizens. According to the data from the Baku IOM office, the Azeri media reported that in 1990-1999, 750 Azeri women were deported from Turkey for prostitution, of whom 650 – or 87% – were deported between 1996 and 1999. In 2001, the number was 550. The UAE alone deported 900 Azeri prostitutes from 2001 until April 2003. According to some other reports, in 1999 the Turkish authorities counted 6,000 Azeri women engaged in prostitution, and the UAE reported that 2,000 Azeri females were involved in prostitution (Mamedov; Deported; Trade; Seyidbeyli).

Subsequently, the media constantly reported cases of the deportation of Azeri women from Eastern countries. Here, the geographical scope of trafficking expanded considerably. However, it was evident that the majority of Azeri women were trafficked for sexual exploitation to Turkey, the UAE, Iran, India, Jordan, Egypt and Indonesia. The biggest share of reports on arrests and deportations of Azeri women came from these countries. According to the numerous non-governmental organizations dealing with human trafficking, approximately 1,000 females are fraudulently trafficked or sent to work as prostitutes from Azerbaijan every year (Aleksperov).

Azeri citizens’ journeys abroad for slavery became so common that local NGOs even adopted a special term for illegal female prostitutes who travelled or were fraudulently taken out of the country to work abroad: “exit prostitution.” New tendencies have also emerged: a growing number of men are becoming victims of trafficking. According to the Republican Ministry of Interior, in 2006, 86% of trafficking victims were women, 3.5% were children, and the remaining 10.5% were men. Azeri men were fraudulently exported and used as slaves by private firms or enterprises (Myasnikov).

According to the Azeri Women’s Crisis Centre (WCC), from November 2001 until January 1, 2008, 8,734 women appealed to the WCC for help. Of these, 182 (2.1%) were victims of human trafficking or relatives of victims. Over 70% of these victims were women aged 18 to 40. Most of

them had a fairly high level of education: over 36% had higher or incomplete higher education; 21% had specialized secondary education. Almost 30% of the victims of human trafficking were unmarried women, 27% were married, and the rest were divorced or widowed.

Regionally, every fourth victim of trafficking is from Baku. Baku is followed in importance by: the cities of Sumgayit, Ganja, Mingachevir and Shemaxa (descending order); the border regions with Iran (Lankaran and Masalli); and the Gazakh and Sheki regions, which border on neighbouring Georgia.

The victims of trafficking, in interviews with WCC members, explain how, in addition to socio-economic factors (unemployment, poverty, the need to feed their children and old parents), patriarchal despotism plays its role. Approximately 47% of victims of human trafficking have regularly suffered from domestic violence from a parent of their husband or from the husband himself. 18% of these victims had been raped. The particularity of Azerbaijan is that the vast majority of cases (95%) of sexual abuse of future victims of trafficking were committed by close relatives. It is also noteworthy that half of victims were recruited by someone they knew. In most cases, the recruiters were other women: friends or neighbours.

In addition, half of these victims of human trafficking (49%) went to another country in the hope of obtaining a good income there. More than a quarter had hoped to receive education, or to marry, or to stay permanently, expecting better prospects for themselves there than in their home country. 17% of victims of trafficking believed that they would find employment corresponding to their training. Over 32% were willing to work in the services (as dancers, waitresses, saleswomen, housekeepers). 49% had no idea about their future employment, and only a 6% were mentally prepared to work in the sex industry without reservations (Yunusov, 196-197).

According to the survey conducted by the NGO "Clean World", in 2005, almost 15% of 243 respondents-victims of trafficking occurred as a result of actions of the close relatives of future victims of human trafficking. This was particularly true in Nakhchivan. However, most often, especially in the capital, the recruiters were female strangers (almost 35%, if we include the activities of women in refugee camps), or victims fell prey to the activity of various specialized firms and agencies (16.5%).

Nearly half (47%) left the country or were taken out of the country through the international airport in Baku. Other channels were also used: some left through the border city Nakhchevan, where they were kept in special houses close to the Turkish border until a certain number of women were recruited. Then, with the tacit support of Azeri customs officers and border guards, they legally crossed the borders in automobiles and entered Turkey. Since 2000, the transportation of women to Turkey via Georgia has been increasingly common. Hence it is not surprising that in recent years the media receives an increasing amount of information about the notable growth in number of trafficked victims from the western regions of Azerbaijan, which border Georgia (Aleksperov).

Another transportation route for women from Azerbaijan goes through the south of the country into Iran and later into other countries in the Muslim East. Here the conclusion of real or sham marriages with Muslim men is widespread. This is due to the fact that the Azeri residents of border territories with Iran are both very pious and very poor. The Azeri media publishes a substantial number of articles about how Iranian traffickers come to these regions and take advantage of the poverty of the population, get married, or, actually, buy so-called "wives" who are often minors. The fate of these "wives" is unknown, but it is not difficult to guess that in most cases, they are sold on to brothels in Iran and other Muslim countries, or that they are used as slaves or servants. It is difficult to say how many such Azeri "wives" now live in Iran, Afghanistan or other Muslim countries. According to some reports, in 1998, approximately 2,000 Azeri girls and women married foreigners, mostly Muslims, and left the country (Aleksperov). But whether or not they actually got married, their fate, is unknown: this kind of statistical data is missing, and it is difficult to draw conclusions.

In Turkey, most Azeri women are concentrated in Istanbul, Ankara, Izmir, Antalya, Trabzon, and Samsun. In the United Arab Emirates, most are to be found in the cities of Dubai and Sharjah.

Additionally, in Turkey, Azeri women prefer to engage in prostitution in certain neighbourhoods. For instance, in Istanbul, the European part of the city is considered a fairly lucrative area: the Laleli, Bayazit and Aksaray districts in the old part of the city, and the Taksim and Beyoglu districts in the new part.

Information about Azeri prostitutes in other eastern countries is less complete. However, it is known that in Iran, the majority is concentrated in the city of Tabriz and in the capital (Tehran); in Syria, the majority is concentrated in the capital (Damascus) and in Aleppo; in India in the capital (Delhi) and Mumbai (Bombay); and in Indonesia in the capital (Jakarta). Average earnings of Azeri prostitutes range from \$100 to \$200 *per* day, although sometimes higher “wages” are earned (Yunusov, 201-202).

The problem of human trafficking became so massive in character that the authorities of the Republic were forced to take it more seriously. In 2004, President Ilham Aliyev signed the long-awaited National Action Plan to Combat Trafficking in Persons. On the instructions of the Plan, a special Office for combatting Trafficking in Persons was created within the Ministry of Internal Affairs of Azerbaijan; a national coordinator for the fight against trafficking was appointed; and a rehabilitation centre for victims of trafficking was commissioned. Moreover, in 2005, Parliament adopted the Law “On Combating Trafficking in Human Beings.”

Following these measures, Azeri law enforcement bodies started to seriously deal with the problem of trafficking. The results were quick and striking. According to the official reports of the Deputy Ministry of Internal Affairs and the National Coordinator for Combating Trafficking in Human Beings Vilayat Eivazov, in the period from 2004 till 2006, 689 facts of human trafficking were registered in Azerbaijan. Criminal charges were brought against 695 people; 83 criminal groups were neutralized, and 273 victims of human trafficking were identified. It was also noted that the highest number of trafficking victims in the country were recorded in the cities of Sumgait, Gazakh and Ganja. During the same period, law enforcement agencies identified and returned to Azerbaijan 900 victims of trafficking. The republic has 54 rehabilitation centres for trafficking victims (Yunusov, 206).

Notwithstanding these facts, human trafficking continued to grow massively. In addition, new trends appeared: Azerbaijan became part of an international network of trafficking. The annual U.S. Department of State report on human trafficking in the world for 2007 acknowledged that the republic’s authorities are making efforts to address the problem. However, these efforts are insufficient. Moreover, it was clearly stated that Azerbaijan was a transit country for the trafficking of women, men and children for sexual and labour exploitation (Trafficking, 2007).

In the following years, the annual U.S. Department of State report on international human trafficking provided more negative information about the trafficking situation in Azerbaijan. In the most recent report for 2012, it was again noted that Azerbaijan is a source, transit and destination country for men, women, and children who are subject to forced labour, as well as for women and children who are victims of sexual exploitation.

Women and children from Azerbaijan are subjected to sexual exploitation in the United Arab Emirates, Turkey, Russia and Iran. Moreover, in 2011, Azeri victims were discovered in Afghanistan. It was further pointed out in the report that although the Azeri authorities make efforts to combat trafficking in human beings, so far these efforts have not brought tangible results. Certainly, Azerbaijan has not yet met the requirements of the Act on Trafficking Victims Protection. In the end, the Azeri authorities were encouraged to intensify their efforts to identify victims of forced labour. This should be done through the implementation of national mechanisms in the field as well as by means of training labour inspectors in active methods of identifying human trafficking victims (Trafficking 2012).

All of the above shows that today human trafficking in Azerbaijan is widespread, and that the problem is amongst the most urgent and pressing social and economic problems in the country.

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**Legal Aspects of Struggle against
Human Trafficking in Azerbaijan**

ALOVSAT ALIYEV

Legal Module

History of struggle against human trafficking of the Republic of Azerbaijan can be calculated from 1996. So, on that date Azerbaijan has signed UN Convention “For the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others”. However Azerbaijan did not take any step to bring national legislation into line with the Convention for a long time. Later it ratified number of Conventions of United Nations¹ and Council of Europe² as well. In addition to it, with a view to strengthen fight against human trafficking and to improve cooperation Azerbaijan has signed some agreements³ and bilateral memorandums⁴ with the member states of Commonwealth of Independent States (CIS). Azerbaijan has also approved number of protocols⁵, statements⁶, understanding memorandum⁷, and cooperation programs⁸.

To harmonize national legislation and international treaties Azerbaijan is party to and to ensure efficiency of the struggle against human trafficking, first “National Action Plan”⁹ of Azerbaijan Republic was adopted in 2004.

Although Azerbaijan was party to several international treaties, until 30 September 2005 it did not make any amendments to the Criminal Code regarding human trafficking. On 30 September 2005, provisions prohibiting human trafficking and forced labor have been added to the Criminal Code of the Republic of Azerbaijan¹⁰. Beside of it, Azerbaijan adopted several legislative acts¹¹ to provide efficiency

¹ Law of the Republic of Azerbaijan on Approval of the UN Convention “On against Transnational Organized Crimes” and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air” dated to 13 May, 2003;

² Law on Approval of the Convention of the Council of Europe “On Action against Trafficking in Human Beings” dated to 11 May, 2010;

³ Law of the Republic of Azerbaijan on signing agreement “On cooperation of ministries of internal affairs (police) of the member states of Commonwealth of Independent Countries on struggle against human trafficking” dated to 21 December, 2012;

⁴ Decree of the President of the Republic of Azerbaijan dated to 07 June, 2011 “On Memorandum of understanding for cooperation between Ministry of Internal Affairs of Azerbaijan Republic and National Committee on Struggle against Human Trafficking of the United Arab Emirates “ signed on 21 March, 2011 in Abu-Dabi;

⁵ Law of the Republic of Azerbaijan on signing of the Optional Protocol “On the Sale of Children, Child Prostitution and Child Pornography” to the United Nations Convention “On the Rights of Child” dated to 02 April, 2002;

⁶ Law of the Republic of Azerbaijan “On approval of Brussels Declaration on prevention of human trafficking and struggle against it” dated to 20 September, 2002;

⁷ Law on approval of the Order “On Cooperation for struggle against human trafficking, illegal trade on human organs and tissues between Commonwealth of Independent Countries” dated to 23 May, 2006;

⁸ Law on approval of the Order “On Cooperation Program for struggle against human trafficking between Commonwealth of Independent Countries for 2007-2010” dated to 30 December, 2008;

⁹ Order of the President of Azerbaijan Republic on “Adoption of the National Action Plan on Struggle against Human Trafficking” dated to 06 May, 2004;

¹⁰ By the Law of Azerbaijan Republic dated to 30 September 2005 “On amendments and addition to some legislative acts of AR”, provisions on human trafficking (Article 144-1), forced labour (Article 144-2), disclosure of confidential information about of a victim of human trafficking(Article 316-1) have been added to the Criminal Code;

¹¹ Law of Azerbaijan Republic “On transplantation of human organ and (or) tissues” dated to 28 October, 1999; Decision of the Cabinet of ministers of AR dated to 09 November 2005 “On establishment of special institutions for the victims of human trafficking, financing, operation and control of their activities”; Decision of the Cabinet of ministers of AR dated to 12 January 2006 “On approval of the Regulation of Fund for the Assistance to Human Trafficking Victims”; Decision of the Cabinet of ministers of AR dated to 06 March, 2006 “On approval Rules for social rehabilitation of Human Trafficking Victims”; Decision of the Cabinet of ministers of AR dated to 17 June 2006 “On amount of the compensation to be paid to Human Trafficking Victims during reintegration period”; Decision of the Cabinet of ministers of AR dated to 01 February, 2008 “On approval of Rules on delivering Human Trafficking Victims to special police units specialized in struggle against human trafficking”; Decision of the Cabinet of ministers of AR dated to 11 August 2009 “On approval Rules of National Referral Mechanism for the victims of human trafficking”; Decision of Cabinet of ministers of AR dated to 03 September 2009 “On approval of the Rules (indicators) for identification of the victims of

of the fight against human trafficking within the country. However definition of the human trafficking given in the Criminal Code did not coincide with the concepts defined in international treaties Azerbaijan has signed and it did create problems on qualification of the human trafficking crimes.

Articles 3 and 5 of the Criminal Code of Azerbaijan Republic defines that¹², the ground of the criminal liability shall be committing of action (action or inaction), structure of which provided only by the present Code. Also principle of legality is defined in the Criminal Code which states that, criminal action (actions or inaction), and also punishments for this actions and other measures of criminal - legal nature shall be determined only by the present Code¹³. Despite of this principle is being in contradiction with the Article 151 of the Constitution of Azerbaijan - *Whenever there is disagreement between normative-legal acts in legislative system of the Azerbaijan Republic (except Constitution of the Azerbaijan Republic and acts accepted by way of referendum) and international agreements wherein the Azerbaijan Republic is one of the parties, provisions of international agreements shall dominate* - provisions of the Criminal Code applies unambiguously.

According to the Article 144-1 of Criminal Code in force, human trafficking - involving, obtaining, storage, concealment, transportation, delivering or accepting of people (involving, obtaining, storage, concealment, transportation, delivering or accepting children for exploitation purposes shall be considered as human trafficking even if the means stipulated in this Article were not used) for exploitation purposes by using force or under the threat of force, by threat or other methods of compulsion, by means of theft, fraud, deception, abuse of possibility to influence or victim's weakness, or by providing or obtaining material and other boons, privileges or concession in order to get the consent of the person controlling another person shall be penalized with five to ten years of deprivation of liberty¹⁴.

If similar actions are made against two or more persons, against minors, against a pregnant woman whose pregnancy is apparent to the accused person, by taking victim of human trafficking out of borders of Azerbaijan Republic, by preliminary conjoint group of people, organized group or criminal union (criminal organization), by accused person by abusing his duty position, by applying force that endangers the life and health or when threatening to apply this force, by means of tortures to victims or cruel, inhumane, or degrading treatment, with the purpose to use the organs or tissues of the victim shall be penalized with ten to twelve years of deprivation of liberty.

According to Note to this Article, "exploitation of human being" in this Article means forced labor (service), sexual exploitation, slavery, traditions similar to slavery and dependence caused by them, illegal transplantation of human organs and tissues, conducting unlawful biomedical research on persons, involvement in illegal as well as criminal activity.

Despite of this Note, separate Articles criminalizing forced labor¹⁵, purchase and compulsion to withdrawal for transplantation of body organs or tissues of a person¹⁶, involving to prostitution¹⁷,

human trafficking"; Decision of the Cabinet of ministers of AR dated to 19 November 2009 "On approval of Rules on placement children victims of human trafficking in shelter and maintenance of them"; Decision of the Cabinet of Ministry of AR dated to 20 May, 2011 "On approval Program on prevention of social problems leading to human trafficking"; Decision of the Cabinet of ministers of AR dated to 11 August 2009 "On approval of Rules of National Referral Mechanism for victims of human trafficking"; Order of the Ministry of Internal Affairs dated to 12 October, 2007 "On approval of the Regulation on Hot-Line serving victims of human trafficking, potential victims";

¹² Articles 3 and 5 of the Criminal Code of Azerbaijan Republic;

¹³ Article 5.1 of the Criminal Code of Azerbaijan Republic;

¹⁴ Article 144-1.1 of the Criminal Code of Azerbaijan Republic;

¹⁵ Article 137 of the Criminal Code of Azerbaijan Republic;

¹⁶ Article 144-2 of the Criminal Code of Azerbaijan Republic: forced labour - forcing a person to perform certain work (service) by means of threats, use or threat of coercion, or by means of confinement other than in the situations prescribed by the law;

slavery¹⁸, illegal implementation of biomedical researches or application of the forbidden ways of diagnostics and treatment, and also medical products¹⁹, involving of minor to criminal activity²⁰, involving of minor to prostitution, or commitment of immoral actions²¹ still is in the Criminal Code which leads to confusion in qualification of committed crimes.

Also with the inclusion of Article on human trafficking to the Criminal Code in 2005, Article 173 criminalizing sale and purchase of minor or commitment of other bargains concerning minor or connected with his transfer to another, or owning him was removed from it. Therefore current text of Criminal Code does not include it. According to the Article 144-1 of current Criminal Code, involving, obtaining, storage, concealment, transportation, delivering or accepting of minors with the purpose of human trafficking shall be considered human trafficking even if methods described in the Article 144-1 have not been used. However if these actions are committed in respect of minors without human trafficking purpose it will not be penalized by any norms of the Criminal Code.

On 09 May, 2013 new amendments were made to the articles of the Criminal Code criminalizing human trafficking²² and forced labour²³, as well as article on falsification of documents with the purpose of human trafficking²⁴ was added to it. The article of human trafficking was totally brought in line with the international treaties Azerbaijan Republic is party to. Under the Article 144-3 of the Criminal Code, falsification of identity card, passport or any other identity document, as well as travel document of a person with the purpose of human trafficking is criminal act and is classified as less serious crime (is penalized with one year to four years of deprivation of liberty). In fact there was no need for this norm to be included to the Code, as falsification of the documents of any person with the purpose of human trafficking in it commitment of human trafficking crime. This norm will help traffickers to avoid punishment for the crime committed by them.

¹⁷ Article 243 of the Criminal Code of Azerbaijan Republic: involving to prostitution with a purpose of reception of the income or other benefit;

¹⁸ Article 106 of the Criminal Code of Azerbaijan Republic: the slavery, that is full or partial realization above a person of the competencies inherent to the property rights;

¹⁹ Article 138 of the Criminal Code of Azerbaijan Republic;

²⁰ Article 170 of the Criminal Code of Azerbaijan Republic;

²¹ Article 171 of the Criminal Code of Azerbaijan Republic;

²² Article 144-1 of the Criminal Code of Azerbaijan Republic;

²³ Article 144-2 of the Criminal Code of Azerbaijan Republic;

²⁴ Article 144-3 of the Criminal Code of Azerbaijan Republic;

**The Problem of Human Trafficking in Post-Soviet
Azerbaijan: Socio-Political Context**

SERGEY RUMYANSEV

Socio-Political Module

The protection of human rights, particularly in the context of international relations, and domestic policy formation in the field of gender equality are the two most important social and political contexts, within which the questions and discussions regarding the issue of human trafficking in Azerbaijan are addressed. It should be emphasized that, as a significant problem requiring a serious response on the part of state institutions, the problem of human trafficking has been on the agenda since the early 2000s. This is due to the increasingly active participation of both government officials and NGO representatives in various international programs and agreements, as well as the assumption of a number of obligations at international level, etc.

In fact, the issue of the prevention of trafficking in persons was initially raised in the context of a much wider problem of violence against women. The most important aspect of this problem remains forced prostitution. It is in the context of the problems of prostitution that trafficking in persons (most often, women) is considered, also related to the issues of migration processes. One of the first large-scale discussions on human trafficking occurred at the conference on violence against women held by the Azeri NGO “Symmetry” and the OSCE Office for Democratic Institutions and Human Rights (ODIHR)¹ in 2000 in Baku on violence against women. This, and other similar discussions and conferences, as well as the gradual formation of legislative and institutional frameworks have taken place under the direct influence of international organizations (e.g., the UN), the European Union and the United States. The actions of Azeri authorities should be seen as a move towards the gradual integration (both legal and institutional) with the EU, and a sign of co-operation with the U.S. in this sphere.

According to some experts from the United States, Azerbaijan is not only a source country for victims of trafficking, but also the territory of transit and destination for victims of sexual and labour exploitation. For the purposes of forced labour, men and children are sent into Russia. For the purposes of sexual exploitation, women and children are sent into the United Arab Emirates, Turkey, Russia and Iran. These experts also point out that the government of Azerbaijan has yet to take steps in this direction and to address the problem of human trafficking.² In the context of combating violence against women and human trafficking, a new program amongst the police forces was launched in 2001, which was also later expanded to include officials in the prosecution offices and the courts. Various training sessions are being held. Since 2001, Azerbaijan joined the regional information campaign of the United Nations Development Fund for Women, “Life without violence.” In 2003, the recommendations of the Council of Europe on action against trafficking in human beings for the purpose of sexual exploitation were translated into the Azeri language.³

The actions of the Azeri authorities were inspired by the UN Convention “Against Transnational Organized Crime”, which was approved in Azerbaijan in May 2003, and the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children,” and the “Brussels Declaration on Preventing and Combatting Trafficking in Human Beings,” adopted on September 20, 2002.

The Presidential Decree of 6 May 2004 approved the “National Action Plan to Combat Trafficking in Human Beings in the Republic of Azerbaijan.” A responsible department was created within the Ministry of Internal Affairs, whose officers were trained in the EU countries and participated in conferences and seminars. For instance, “during the month of March 2006, the employees of the department participated in three conferences on combatting trafficking in human beings: twice in

¹ ODIHR is the Office for Democratic Institutions and Human Rights under the OSCE – the Organization for Security and Co-operation in Europe.

² See: *Trafficking in Persons Report*. June 2012, Department of State, USA. Azerbaijan, p. 77-78: Available at www.state.gov/j/tip/rls/tiprpt/2012/, accessed on 04.03.2013.

³ For details, see: The Report of the State Committee on the Affairs of Women of the Republic of Azerbaijan on the questionnaire of the government regarding the implementation of the Pekin action platform (1995) and the resolutions of the 23 special Session of the General UN Assembly (2000). Available at <http://www.un.org/womenwatch/daw/Review/responses/AZERBAIJAN-Russian.pdf>, accessed on 03.03.2013.

Austria and once in Georgia. In addition, they participated in a round table organized by non-governmental organizations on the establishment of “centres for the medical, psychological and social rehabilitation of victims of human trafficking” and of a “legal clinic.”

In Baku, with the assistance of the OSCE Baku Office staff and the International Organization for Migration, a shelter for the victims of trafficking was built and opened. The NGO “Chistiy Mir” (Pure World) is currently one of the most active non-governmental organizations co-operating with the government on the issues of human trafficking.⁴

In some senses, this activity can be seen as somewhat belated. Mass emigration of the population from Azerbaijan (labour migration, etc.) began already in the first half of the 1990s.⁵ In those same years, in fact, the trend to emigrate for purpose of finding work in the sex industry, as well as an associated tendency of sexual exploitation of immigrants (mostly female), became visible. This kind of migration was mainly directed towards Iran, Turkey, Pakistan, the United Arab Emirates and some other countries. There are not enough data on the situation in the 1990s to make generalisations about specific trends. According to Arif Yunusov, the problem of human trafficking becomes relevant only since 1997. Notable attempts to make statistical estimations of the number of trafficking victims date back to the early 2000’s. As Yunusov notes, “according to the estimates of numerous non-governmental organizations that deal with the problem of human trafficking, up to 1,000 females are trafficked from Azerbaijan every year by fraudulent means. Very few of them return.”⁶ A certain number of children are trafficked, as well as males, who are forced to work. However, the majority of observers agree on the fact that females between the ages of 18 and 35-40 constitute the vast majority of the victims.⁷

Statistics are as reported by the Ministry of Internal Affairs of Azerbaijan. It is impossible to evaluate their accuracy.⁸ In general, the official statistics show a tendency towards reducing the number of victims from year to year. For example, in 2010, according to the reports by the Ministry of the Interior, more persons were convicted of trafficking (39 persons) than the number of victims of trafficking who were discovered (34 people). As for the victims, they were mostly young women with little education (9 of them have not even finished school). 23 victims were trafficked to Turkey, 4 to the United Arab Emirates, 3 to Iran, and the remaining 4 to other countries, including Russia.⁹

The recent statistics on victims of human trafficking look similar. In December 2012, the statistics on human trafficking were summarized for the past seven years (2006-2012). These official data were

⁴ For more see: The Department on Combatting Human Trafficking within the Ministry of the Interior of the Azerbaijan Republic. Available at <http://www.mia.gov.az/?/ru/content/29503/>, date of access: 02.03.2013.

⁵ *International Migration*, 2010. Available at <http://www.azstat.org/statinfo/demographic/en/index.shtml#>, date of access: 31 May 2012; A. Yunusov, *Migration Trends and Tendencies in Post-Soviet Azerbaijan* Available at <http://www.kavkazoved.info/news/2011/10/23/migracionnye-trendy-i-tendencii-v-postsovetском-azerbajdzhan.html>, date of access 03.03.2013.

⁶ For more, see: Yunusov, *ibid.*

⁷ Yunusov, *ibid.* *Gender Attitudes in Azerbaijan: Trends and Challenges*// Azerbaijan Human Development Report. 2007, Baku: UNDP, p. 72-73; *Migration in the republic of Azerbaijan: a country profile*. (2008). IOM, International Organization for Migration, p. 33-35; *Global report on trafficking in persons*. (February 2009). UNODC, p. 208; *Shattered Dreams. Report on Trafficking in Persons in Azerbaijan*. 2002, International Organization for Migration.

⁸ The accuracy of the statistics is under question due to the high level of corruption of both Azeri police forces and state officials. See: Global Corruption Report (2009). *Corruption and the Private Sector*. Transparency International, Cambridge University Press, p. 49, 115, 401; Wescott C., Desai R., Talvitie A., (2011). *Azerbaijan: World Bank Country-Level Engagement on Governance and Anticorruption*. Washington DC.

⁹ Azerbaijan Migration Center (2010). Annual report on combating human trafficking and forced labor migration in Azerbaijan Republic (for 2010). Baku, p. 5.

discussed in the media without garnering particular interest.¹⁰ The information was provided to the mass media at the International Conference in Baku. The declared aim of this conference was to strengthen international cooperation in this field. According to the Deputy Minister of Internal Affairs Vilayat Eyvazov (who leads the activity of the Ministry in this field), 473 persons fell victim to trafficking during the previous six years. Virtually all cases of human trafficking were connected to the sexual exploitation of victims.¹¹ In 2012, 89 victims of trafficking were referred to the support centres. The directions by country remain the same: 19 victims were taken to Turkey, 12 to Iran, 2 to the United Arab Emirates and 14 to Russia.¹²

Despite the official account of a reduction in the number of victims, it is difficult to judge the quality of the measures taken to combat human trafficking considering the high degree of non-transparency of the actions of the Azeri authorities in this regard. In the meantime, the Azeri authorities demonstrate a high degree of activity and a will to cooperate with international organizations in the implementation of measures to combat this kind of trade. This position of the authorities can be explained by the fact that combatting trafficking is one of the few areas of the human rights field that has not been politicized. Azeri authorities can be active in this field showing good will to cooperate with the EU, the UN or the US, without compromising the stability of the regime.¹³ Thus, this area can serve an example of a fairly successful collaboration with a number of international human rights organizations as well as with the UN and the EU, at least in projects that deal with changes in legislation and the formation of anti-trafficking public institutions.

¹⁰ At the moment of appearance of this information and in the course of the next 3-4 months, no more than 5-6 articles have been published on the issue of human trafficking, and these were mostly short news stories. The popularity of this topic is clearly inferior to that of discussions on migration into Azerbaijan or the process of Diaspora building. The latter topics have consistently seen a number of publications per week, including lengthy interviews with emigrants from Azerbaijan, analytical articles, etc.

¹¹ *Azerbaijan has released statistics on human trafficking for the past seven years*, Available at <http://www.trend.az/news/society/2095966.html>, accessed on 01.03.2013; *Azerbaijan has publicized statistics on human trafficking*, <http://news.day.az/society/370883.html>, accessed on 01.03.2013.

¹² *The Ministry of Internal Affairs of Azerbaijan has reported on combating trafficking in human beings*. Available at <http://www.trend.az/news/politics/2083256.html>, accessed on 02.03.2013.

¹³ The Azerbaijani authorities display less will to negotiate and to cooperate on the issues of political prisoners in the country. See, for instance, the Strasser Report on political prisoners in Azerbaijan produced contradictory evaluations (27.12.2012). Available at www.kavkaz-uzel.ru/articles/217896/, accessed on 02.03.2013.

**Human Trafficking in Georgia:
Official Data on Human Trafficking**

MIRIAN TUKHASHVILI

Demographic and Economic Module

One can safely say that statistics on human trafficking in Georgia do not exist. The number of cases identified and recognized by the court is insignificant compared to the mass of cases that contain clear evidence of human trafficking. According to experts, the victims of human trafficking avoid acknowledging this fact for various reasons. There are many cases when law enforcement agencies avoid or do not fight against human trafficking appropriately.¹

Thus, statistical data on human trafficking in Georgia is inconsistent and very scarce, which poorly reflects the phenomenon of human trafficking. Some of the data is provided below (see Tables 1 and 2).

Table 1. Crimes Committed under “Human Trafficking”

Crimes	2005		2006		2007	
	Total	Against Women	Total	Against Women	Total	Against Women
Registered	13	10	32	18	29	14
Disclosed	7	4	15	11	8	5

Source: Ministry of Internal Affairs of Georgia

Table 2. Crimes Committed under “Human Trafficking”

Crimes	2005	2006	2007	2008	2009	2010	2011	2012
Registered	13	33	29	10	12	11	10	5
Disclosed	7	15	8	2	3	3	4	-

Source: Ministry of Internal Affairs of Georgia

Published on June 19th, 2013, the annual report of the US government’s department on human trafficking reflects the fact that in comparison with previous years, Georgia’s position on combating human trafficking has deteriorated. Georgia moved from the first group of countries (a total of 32) to the second group of countries (Tier 2), which indicates a weakening of the fight against human trafficking. It can be assumed that this is caused by a very tense internal political situation in the reporting period, which led to decreased attention to countering human trafficking. Currently, the leadership of relevant entities perceive human trafficking as one of their major problems and are prepared to make every effort to combat it.²

Human Trafficking for the Purpose of Sexual Exploitation

In connection with transnational migration, special attention is paid to human trafficking for the purpose of sexual exploitation. In this area, Georgia can be considered a sending, receiving, and transit country. According to the US State Department report, women are sent for the purpose of sexual exploitation to Turkey, the Arab Emirates, Egypt, Russia, Austria, and Germany.

There are also numerous cases of transit through the territory of Georgia or women imported for the purpose of providing sexual services to clients who have come from neighboring states.

¹ TV_maestro. 20.06.2012.

² A new plan of action to combat human trafficking. http://www.youtube.com/watch?v=1nu1ma_5swU

The increase in the number of brothels in the Adjara Tourist Region, mostly in the border zone, has been a high profile issue. Intensified actions to combat human trafficking and specific successes in this area in Turkey have led to a revitalization of sex services in the border regions of states neighboring Turkey. For instance, according to Nana Nazarova, the head of “People’s Harmonious Development Society,” there are up to 500 women employed in 27 informal brothels in one village called Gonio, which is located in the Georgian region bordering Turkey. After their “employment”, they must pay their “employer” 7,500 US dollars. A significant number are from Uzbekistan and serve clients crossing the virtually open border with Turkey. The fact that the majority of the women understand Turkish language contributes to sex services. Clients are also provided with Turkish cuisine.³

The population of Gonio is appalled by the prevalence of prostitution, which they deem unacceptable. The signatures of over 450 women protesting the transformation of their village into a sex-services zone are evidence of this. They point to the mass sexual violence observed in the village. There are cases of suicide. Women’s parents and close relations in Uzbekistan do not know about their forced participation in the sex industry and believe that they are employed as cleaners when in actuality they work as prostitutes and are primarily victims of human trafficking.

Currently, the authorities are very interested in changing the negative situation in the border regions.

Human Trafficking for the Purpose of Labor Exploitation and Combating the Negative Effects of Human Trafficking

Labor emigration from Georgia, which by our estimates comprises 350-500 thousand (10% of the population) is primarily of an illegal nature. In the labor market of Post-Soviet Georgia, a catastrophic decline in the demand for labor and a sharp depreciation of the labor force has resulted in a high intensity of labor migration of a predominantly illegal or semi-legal nature. The majority of emigrant work contains elements of various forms of coercion, which is reflected in the absence of work contracts, harsh and unhealthy working conditions, an ultra-high intensity of labor, unreasonably long working hours, the degradation of one’s professional potential, blatant discrimination with regards to pay, virtual isolation from social life, etc.

Our and other research reveals that only 8-10% of labor emigrants work in their occupational specialty.⁴ Every third respondent worked more than 10 hours per day and 41.8 % had very stressful operating conditions.⁵ Among those who returned, only 53% felt healthy whereas upon departure 87% were healthy.⁶ The average length of stay abroad does not exceed 4 years, and one of the main reasons for the sharp deterioration in health in this short period was forced labor.

A large number of factors of forced labor are contained in the stories of migrants who left Georgia for Greece.⁷ There is a need to summarize this information and draw appropriate conclusions.

There are also numerous cases of Georgian citizens who were fraudulently exported and subjected to various forms of violence, especially in Turkey. For instance in the city of Ichkireti, the Turkish

³ www.netgazeti.ge.20.06.2012

⁴ Labor Migration from Georgia/ (2003). IOM.

⁵ The Labor Market and the Reintegration of Migrants who have Returned to Georgia. Director of Research M. Tukhashvili, Tbilisi, 2011.

⁶ Tukhashvili M., Sheliya M. The Impact of Labor Emigration on Democratic Growth in Georgia in the Post-Soviet Period. <http://www.carim-east.eu/media/CARIM-East-2012-RU-11.pdf>

⁷ Features of Migration Processes from Georgia to Greece. Tbilisi, 2010.

police released 23 Georgian citizens who were locked up in the basement of one of the brothels and demanded 2000 US dollars for the release of each one of them.⁸

In Georgia, rehabilitation shelters for victims of violence have been established in the cities of Tbilisi, Batumi, and Gori. Table 3 shows data from the Ministry of Internal Affairs on the use of these shelters.

Table 3. Structure of Aid to Victims of Human Trafficking in Georgia in 2006-2011

Utilized Shelters	2006	2007	2008	2009	2010	2011
Women	2	6	4	5	6	3
Men	1	3	2	3	3	1
Minors	X	2	2	2	1	X
Victims of Sexual Exploitation (?)	2	6	4	2	6	X
Victims of Labor Exploitation	1	6	7	6	12	3
Psychological Services	3	9	6	8	9	4
Medical Services	3	11	8	10	10	4
Compensation	X	2	5	X	3	X
Legal Aid	3	11	10	8	18	4

Source: Ministry of Internal Affairs of Georgia

It is unfortunate that the data from the relevant departments which relates to the very critical societal issue of human trafficking does not make it possible to conduct an authoritative analysis; this must be corrected first and foremost. The absence of a statistical-analytical database should remain one of the main problems that should be resolved by the appropriate entities. Recently there has been a move to address these gaps. In February 2013, a Plan of Action to Combat Human Trafficking was developed, prepared as part of the Interagency Coordination Council to Combat Human Trafficking and approved by the President of Georgia on March 15, 2013.⁹

⁸ www.tabula.ge 29.06.2012

⁹ http://www.for.ge/view.php?for_id=24511&cat=3

**Legal Aspects of Combating
Human Trafficking in Georgia**

GAGA GABRICHIDZE

Legal Module

Introduction

Trafficking in persons was criminalized in Georgia in 2003 when the relevant provisions were included in the Criminal Code of Georgia.¹ 28 April 2006, the Parliament of Georgia adopted the Law on *Combating Trafficking* in Persons. This law, as the name suggests, stipulates the legal and organizational grounds for preventing and combating human trafficking. It also sets the legal status of victims. In the same year the Georgian Parliament ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the Council of Europe Convention on Action against Trafficking in Human Beings. In 2007, a provision was added to the Criminal Code of Georgia. This criminalized the use of services of a victim of human trafficking.²

Legislative framework for the combating and prevention of trafficking in persons

There are three different articles related to the trafficking in persons in the Criminal Code of Georgia³: Art. 143¹ refers to the trafficking in adults, in general. Trafficking in minors is criminalized in a separate provision, namely in Art. 143². Furthermore, Art. 143³ prohibits the use of services of a (statutory) victim of trafficking in persons. Art. 143¹ prescribes punishment with prison sentences ranging from seven to twenty years. Art. 143² contains the stricter approach stipulating prison sentences ranging from eight to life-term imprisonment. As to Art. 143³, use of services of a (statutory) victim of trafficking in persons is punished by imprisonment ranging from three to fifteen years.

The provisions of the Civil Procedure Code,⁴ which are of relevance for human trafficking concern: lodging complaints on the seizure of property owned by human trafficker and its transfer to the state; declaring property owned by human trafficker illegal or unfounded; seizure of property; legal consequences related to declaring property illegal or unfounded.⁵

Assistance and protection of victims of trafficking in persons

The Law on *Combating Trafficking* in Persons⁶ defines the competences and obligations of state agencies, officials and legal bodies and rules for the coordination of their activities.⁷ It defines specificities of the criminal procedure with regard to the prosecution of a trafficking case.⁸ It establishes exemptions of trafficking victims from criminal responsibility for wrongful acts committed by them due to being the victim of trafficking in persons.⁹ It determines the legal status of victims of trafficking in persons¹⁰ and associated social and legal protection guarantees. According to the law, the status of human trafficking victims may be granted to persons by the law enforcement body provided

¹ Articles 143¹ and 143² of the Criminal Code of Georgia.

² Article 143³ of the Criminal Code of Georgia.

³ Adopted 22 July 1999 (Last amended on 19 June 2012). „Sakartvelos Sakanonmdeblo Matsne“, 41 (48), 13/08/1999.

⁴ Adopted 14 November 1997 (Last amended on 25 May 2012). Parliamentis Utskebani“, 47-48, 14/11/1997.

⁵ Articles 356¹ – 356⁷ of the Civil Procedure Code.

⁶ Adopted 28 April 2006 (Last amended 10 April 2012). „Sakartvelos Sakanonmdeblo Matsne“, 15, 16/05/2006.

⁷ Articles 5-10, 17 of the Law on *Combating Trafficking* in Persons.

⁸ Article 13 of the Law on *Combating Trafficking* in Persons.

⁹ Article 15 of the Law on *Combating Trafficking* in Persons.

¹⁰ Articles 11-12 of the Law on *Combating Trafficking* in Persons.

this person cooperates with law enforcement in investigating an alleged case of trafficking.¹¹ Alternatively, it may be granted by the Permanent Task Group at the Interagency Coordination Council for Carrying out Measures against Trafficking in Persons.¹² A victim of trafficking in persons is entitled to a thirty-day reflection period over the question of whether to cooperate with law enforcement bodies in investigating alleged cases of trafficking.¹³

Rules for first contact with victims of trafficking in persons, identification of victims of trafficking in persons and procedure for granting the status of victim are regulated by the Decree of the President of Georgia, 1 February 2007, No 78.¹⁴

Several provisions aiming at protecting victims of trafficking in persons can also be found in other Georgian laws.

The Criminal Code stipulates that sanctions for refusing to make statements do not apply during the reflection period to persons who are victims of trafficking in persons.¹⁵ According to the Code of Administrative Offences,¹⁶ persons are released from responsibility for infringing the rules of registration and staying in Georgia, if the offence was committed while a victim of human trafficking but before being given the status of “victim”.¹⁷ Furthermore, persons are also released from administrative responsibility for prostitution, if prostitution took place while a victim of trafficking in persons but before being granted the status of a victim of trafficking in persons.¹⁸

The Law on the Legal Status of Aliens and Stateless Persons¹⁹ also contains provisions related to the protection of victims of trafficking in persons. In particular, the law stipulates that a temporary residence permit shall be issued to foreigners if there is a reasonable assumption that they may be a victim of trafficking in persons.²⁰ Besides, a foreign citizen where there is a reasonable assumption that he or she may be a victim of human trafficking shall not be expelled from Georgia.²¹

Along with general measures to protect witnesses in Georgian criminal procedure, there are also special provisions with regard to the protection of the victims of trafficking in persons. The Criminal Procedure Code²² provides that during the reflection period persons who are victims of trafficking in persons are free of obligations to testify as a witness and to submit objects, documents, substances or other items containing information significant to the case.²³ Criminal prosecution shall not start or if already initiated shall terminate if the following crimes have been committed by the person because they were a human trafficking victim: violation of rules for entry the occupied territories; illegal crossing of Georgian borders; and fabrication, using or selling of false passport and other official documents and seals.²⁴ During the reflection period, criminal prosecution and/or court trial shall not

¹¹ Article 7 of the Law on Combating Trafficking in Persons.

¹² Article 11 of the Law on Combating Trafficking in Persons.

¹³ Article 12 of the Law on Combating Trafficking in Persons.

¹⁴ Decree No 78, 1 February 2007 of the President of Georgia Approving the Common Standards and Rules for Identification of Victims of Trafficking in Persons. „Sakartvelos Sakanonmdablo Matsne“, 14, 01/02/2007.

¹⁵ Article 371 of the Criminal Code.

¹⁶ Adopted 15 December 1984 (Last amended 29 June 2012).

¹⁷ Article 185 of the Code of Administrative Offences.

¹⁸ Article 172³ of the Code of Administrative Offences.

¹⁹ Adopted 27 December 2005 (Last amended 25 May, 2012). „Sakartvelos Sakanonmdablo Matsne“, 3, 16/01/2006.

²⁰ Article 19.1 g) of the Law on Legal Status of Aliens and Stateless Persons.

²¹ Article 58.3 d¹ of the Law on Legal Status of Aliens and Stateless Persons.

²² Adopted 9 October 2009 (Last amended 9 June 2012). „Sakartvelos Sakanonmdablo Matsne“, 31, 03/11/2009.

²³ Article 50.1 of the Criminal Procedure Code.

²⁴ Article 105.2 d) of the Criminal Procedure Code.

start and the ongoing prosecution/court trial shall be suspended towards persons who are victims of trafficking in persons.²⁵ Furthermore, on the motion of a party, the judge may decide to partially or fully close the hearing in order to protect the interests of a victim of human trafficking.²⁶ Besides, the court renders a judgment of conviction that imposes a sentence, but releases the defendant from serving it if the following crimes were committed by the person as a victim of trafficking in persons: violation of rules for entry of the occupied territories; the illegal crossing of Georgian borders; the fabrication, using or selling of false passport and other official documents and seals.²⁷

Institutional support

Until 2006, an inter-agency commission called the Temporary Interagency Commission for Combating Trafficking in Persons was part of the National Security Council. After the adoption of the Law on Combating Trafficking in Persons in 2006, it was replaced by the Interagency Coordination Council for Carrying out Measures against Trafficking in Persons. The Coordination Council was established according to the article 10 of Law of Georgia on Combating Trafficking in Persons with the Decree of the President of Georgia, 1 September 2006, No 534.²⁸ It is chaired by the Minister of Justice. Furthermore, the Coordination Council consists of representatives of the following institutions: the Prosecutor's Office, the Ministry of Labor, Health and Social Affairs, the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Ministry of Justice and the Ministry of Education and Science. Besides, there are invited members on the Coordination Council. These represent: the Parliament of Georgia, the Public Defender's Office, the Council of Europe, the EU Commission, the US Embassy, the United States Agency for International Development, the Young Georgian Lawyers' Association and the NGO "Tanadgoma". The Coordination Council coordinates anti-trafficking activities and is also responsible for preparing recommendations for the President of Georgia on the issue and for monitoring these matters. Of the documents elaborated by the Coordination Council the following should be noted: unified standards and rules for the identification of THB victims; standards, requirements and a sample of statute of the shelters for victims of trafficking in persons; Strategy for Rehabilitation and Reintegration in Society of Victims of Trafficking in Persons.

The State Fund for the Protection and Assistance to Victims of Trafficking in Persons plays the most important role in implementing the measures directly related to victims of trafficking in persons. The State Fund was established according to article 9 of the Law of Georgia on Combating Trafficking in Persons. Its statute was approved by the Decree of the President of Georgia, 18 July 2006, No. 437.²⁹ The purpose of the State Fund is the effective implementation of protection, assistance and rehabilitation measures for the victims of trafficking in persons. State supervision over the activities of the State Fund is exercised by the Ministry of Labor, Health and Social Protection of Georgia. The State Fund provides the following services to victims of trafficking in persons: shelter; legal, psychological and medical assistance; rehabilitation and reintegration; and compensation to victims of trafficking in persons.

²⁵ Article 107.2 c) of the Criminal Procedure Code.

²⁶ Article 182.3 d) of the Criminal Procedure Code.

²⁷ Article 269.5 f) of the Criminal Procedure Code.

²⁸ Decree No 534 of 1 September 2006 of the President of Georgia on Approval of Composition and Statute of the Interagency Coordination Council for Carrying out Measures against Trafficking in Persons. „Sakartvelos Sakanonmdablo Matsne“, 119, 04/09/2006.

²⁹ Decree No. 437 of 18 July 2006 of the President of Georgia Approving the Statute of a legal person of public law - the State Fund for Protection and Assistance to Victims of Trafficking in Persons. „Sakartvelos Sakanonmdablo Matsne“, 96, 21/07/2006.

Conclusion

To sum up, the legal and institutional framework for the fight against human trafficking and the assistance and protection of victims, which has been established in recent years, creates all conditions for the successful implementation of state policies in this field.

It should be noted here, that since 2007, according to Trafficking in Persons Reports published annually by the State Department of the United States, Georgia is in “tier one”. This means that Georgia has the highest possible ranking and indicates that Georgia fully meets the Trafficking Victims Protection Act’s minimum standards.³⁰

³⁰ The reports can be found on the web site of the US State Department: <http://www.state.gov/j/tip/rls/tiprpt/index.htm>

**Human Trafficking:
Georgia**

NATIA CHELIDZE

Socio-Political Module

Introduction

Georgia is a country of origin, transit and destination for victims of trafficking in persons, as well as a place where they are exploited.

In order to combat human trafficking, Georgia has for several years been dynamically carrying out a series of activities, in terms of elaborating and efficiently implementing relevant legislative base.

In its report dated February 7, 2012 concerning Georgia, the Group of Experts on Action against Trafficking in Human Beings (GRETA) of the Council of Europe underlined the progress achieved in combating human trafficking. This progress includes the adoption of specific legislation against trafficking, the establishment of an inter-agency coordination council for combating trafficking in persons, and a state fund for supporting victims of trafficking, as well as an increase in the ratio of budgetary funds to be allocated for the assistance of victims.¹

In the 1990s, the government of Georgia was not adequately aware of trafficking and the urgent need to provide solutions for this problem. As a result, the U.S. State Department considered the efforts made by the authorities of the country to be insufficient and therefore, placed Georgia in the third group of countries.²

The term "human trafficking" was first referred to officially within Georgian legislation in 2000, in particular, in the Decree of the President of Georgia "On the approval of a plan (2000-2002) for fighting violence against women" N64 of February 25, 2000. That Decree included a paragraph concerning female trafficking for the purpose of their sexual exploitation. Even though the Human Rights Protection Department of the Office of the National Security Council of Georgia was charged with the job of providing overall coordination and evaluation for the plan, the anti-trafficking clause contained within the Decree was never put into practice.

The Decree of the President of Georgia "On measures to ensure protection of human rights in Georgia" N240 of May 17, 2002 envisaged the elaboration of a governmental anti-trafficking policy. The Ministry of Justice was commissioned to propose amendments to the Criminal Code in order to qualify trafficking in persons as a punishable act, and to apply respective sanctions.

In the second half of 2002, the National Security Council initiated the implementation of anti-trafficking activities. Major changes occurred after an "Action Plan for Combating Trafficking in Persons for 2003-2005" was approved under Presidential Decree N15 of January 17, 2003. The plan contained the following five major tasks: ratifying legislative amendments for protecting the rights and interests of victims of trafficking, in particular, of females and children; preventing trafficking in human beings; assisting victims of trafficking; providing criminal prosecution and punishment for the persons found guilty of trafficking; and monitoring the activities performed. Notwithstanding the availability of the detailed plan of action, only a few measures were taken. In particular, draft Amendments to the Criminal Code of Georgia elaborated by the Ministry of Justice considering criminalization of trafficking in human beings and imposing relevant sanctions against that type of offence were approved. In addition, the Department for Combating Illegal Use of Drugs, Trafficking

¹ Available at http://www.coe.int/t/dgap/tbilisi/news/2012_07_02_ge_2.asp March, 2013.

² Together with Germany, the United States and a few European countries, Georgia has been placed in the first group of countries since 2007. (According to the U.S. State department, the governments of the countries that fully comply with the TVPA's (Trafficking Victims Protection Act of 2000) for the elimination of trafficking are placed in group 1. Governments that are making significant efforts to meet the minimum standards are placed in group 2. Governments that do not fully comply with the minimum standards and are not making significant efforts to do so are placed in group 3.)

and Irregular Migration (currently titled as the Trafficking and Irregular Migration Unit of the Special Operations Department of the Ministry of Interior) – a structural subdivision for fighting trafficking – was set up within the Ministry of Interior of Georgia.

In 2004, via an active collaboration and involvement on the part of the OSCE Mission in Georgia, representatives of international organizations, and governmental agencies and NGO sector, another Action Plan for 2005-2006 was developed, which was approved by Presidential Decree № 623 of December 29, 2004. In order to ensure the efficient implementation of the aforementioned action plan, an Interim Interagency Commission on Combating Trafficking in Human Beings was set up substituted later by an Interagency Coordination Council³ established by Presidential Decree № 534 of September 1, 2006.

A special Law on Combating Trafficking, adopted on April 28, 2006 and in force since June 16, 2006, identified legal and organizational fundamentals for preventing and combating trafficking in human beings in Georgia. It also determined the powers, rules of activities and coordination with respect to anti-trafficking measures of legal entities and high officials employed within state authorities. The Law also defined the legal status of victims of trafficking and the guarantees for their social protection.

Pursuant to Article 9 of the aforementioned Law, a State Fund⁴ for the purpose of protecting and assisting of (statutory) victims of human trafficking, a legal entity in public law, was established in June 2006. The state supervision over the activities of the Fund is exercised by the Ministry of Labour, Health and Social Protection of Georgia. It pursues the following goals: providing legal, psychological and medical assistance to the victims of trafficking; providing accommodation at asylums for the victims of trafficking (with regard to asylums, the structural units of the State Fund were established in Tbilisi and Batumi during 2006-2007); offering compensation to the victims of trafficking; providing a hotline service; and assisting in rehabilitating and reintegrating victims of trafficking.

The adoption of a special law encouraged further activity on the part of the Interagency Coordination Council, which had been designed to carry out measures for the purposes of fighting trafficking in persons. The Council drafted unified standards and regulations for identifying victims of human trafficking (Presidential Decree N78 of February 1, 2007), which were subsequently approved by the President of Georgia. The Council also adopted the composition of the permanent commission affiliated to the Coordination Council and the rules for its activities (Presidential Decree No. 534 of September 1, 2006), as well as the standards and requirements for arranging and a sample charter⁵ of the institutions (asylums) for providing services to victims of trafficking. The Council has also approved operational instructions for protecting victims of trafficking in human beings (a national referral mechanism) and regulations for providing compensations⁶. As a part of the Action Plan, a strategy for rehabilitation and reintegration of victims/complainants of trafficking in human beings was adopted on July 19, 2007.

³ The Inter-agency Coordination Council is chaired by the Minister of Justice of Georgia and includes the Minister of Labour, Health and Social Protection of Georgia, the main prosecutor of Georgia, the Deputy Minister of Education and Science of Georgia, the Deputy Minister of Interior of Georgia, the Deputy Minister of Economy and Sustainable Development of Georgia, the Deputy Minister of Foreign Affairs of Georgia, the Deputy State Minister for Diaspora Issues, the public defender of Georgia, and the director of the State Fund for the protection and assistance of (statutory) victims of human trafficking. In addition, representatives of the following entities were asked to contribute to the functioning of the Council: the Parliamentary majority and minority, the public defender's office, the Council of Europe, the European Commission, the US Embassy in Georgia, the USAID, the UN Children's Fund, IOM, the Georgian Young Lawyers' Association and the following NGOs: "Tanadgoma", "Civil Development Agency," and "The National Network for Protection against Violence".

⁴ Available at <http://www.atipfund.gov.ge/index.aspx>, March, 2013.

⁵ Available at <http://www.atipfund.gov.ge/navnews.aspx>, March, 2013.

⁶ Available at <http://www.atipfund.gov.ge/navnews.aspx>, March, 2013.

Starting from 2006, national action plans for 2006-2007, 2007-2009, 2009-2011 and 2011-2012 were developed. The action plan for 2013-2014, drafted with the active involvement of representatives of governmental agencies and the NGO sector, and based on the recommendations suggested by international organizations, was approved at the meeting of the Council on February 13, 2013.

Parallel to amending the national legislative framework in the field of action against trafficking in persons, Georgia ratified several major international treaties dealing with combating human trafficking. In particular, the Parliament of Georgia has ratified the United Nations (UN) Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and the Council of Europe Anti-Trafficking Convention on Combating Trafficking in Human Beings (in force since February 1, 2008). Starting from 1994, Georgia has also joined other UN conventions⁷ against human trafficking, inter alia, the Convention on the Elimination of All Forms of Discrimination against Women (26.10.1994, UN Convention); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (26.10.1994, UN Convention); Convention on the Rights of the Child (02.06.1994, UN Convention); the Convention of the Sale of Children, Child Prostitution and Child Pornography (27.09.2002, an Optional Protocol to the Convention of the Rights of the Child); the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse⁸ (25.10.2007, Council of Europe Convention); the Convention on the Extreme Forms of the Child Labour (18.05.2002, ILO Convention N182), etc.

Apart from providing a positive evaluation, the Group of Experts on Action against Trafficking in Human Beings (GRETA) of the Council of Europe also submitted relevant remarks and recommendations. According to the aforementioned experts, the Georgian authorities should keep the victims of trafficking informed about the rules for getting compensation, adequate legal protection, etc.

The budget of the State Fund for the Protection and Assistance of (Statutory) Victims of Human Trafficking has increased from 300,000 GEL (in 2007) up to 985,000 GEL (in 2012).⁹ Despite this, in fact, only a very limited number of victims used the aid available under individual rehabilitation plans. In addition, a very small number of victims received compensations.¹⁰ According to the U.S. State Department report, 12 victims of human trafficking availed themselves of asylums and were provided with support in 2007, with 10 victims in 2008, 15 in 2009, 9 in 2010, and 20 in 2011, while compensation was given to two victims of trafficking in 2008. There was no request made for compensation in 2009. Again, two victims were given compensation in 2010 and six victims in 2011 (1,000 GEL each, equaling approximately 600 USD),¹¹ whilst a total of 21 victims of trafficking were identified in 2008, with 48 victims in 2009, 19 victims in 2010 and 18 victims in 2011.

According to the director of the State Fund, the reduction in the number of victims of trafficking in human beings could be attributable to the following two factors: (1). Preventive measures have become more efficient, and (2). Following the 2008 Russia-Georgia armed conflict, Georgia has become a less attractive country in terms of attracting individuals seeking employment abroad.¹²

The change of government in Georgia has structurally affected the State Fund for Protection and Assistance of (Statutory) Victims of Human Trafficking too. It has been merged with the State Care Agency, a legal entity in public law, responsible for offering institutional patronage for those persons under state guardianship (vulnerable groups within the society). This includes providing nursing,

⁷ Available at <http://www.police.ge/index.php?m=414&lng=eng>, March, 2013.

⁸ The conventions have already been signed, and the relevant ratification procedures are ongoing.

⁹ Available at <http://www.mof.ge/4979>, The State Budget of Georgia, 2007, 2012.

¹⁰ Available at http://www.coe.int/t/dgap/tbilisi/news/2012_07_02_ge_2.asp, March, 2013.

¹¹ Paper by Nazarova Ts. See <http://enpates.org/dynamic/docs/GeorgiaCountryProfile.pdf>.

¹² "Two opinions: the problem of trafficking in Georgia" by Kupreishvili T., an internet news portal, 30.06.2011. Available at <http://www.netgazeti.ge/GE/63/opinion/5570/>.

living conditions, nourishment, primary healthcare, psychological and medical rehabilitation, and assisting in integrating into the society. Respectively, the amount of funds allocated from the state budget is seven million GEL in 2013,¹³ a sum that is three million less than the combined budgets of the aforementioned two entities for 2012.

According to the U.S. State Department report published in 2011,¹⁴ Georgia has been a country of destination to a lesser extent.¹⁵ Primarily, the men and women who have entered Georgia tend to become subject to the forced labour in our country. In terms of trafficking, Georgia is a predominantly country of origin. Trafficking of Georgian women subjected to sexual exploitation has mainly been identified in Turkey and Egypt, as well as in the United Arab Emirates, Austria, Greece and Germany. Cases of trafficking of Georgian nationals for the purpose of their exploitation in labour activities have been identified in Turkey, Egypt and Libya.¹⁶

The situation has changed over the past two years. Georgia has transformed into a country of destination, a fact confirmed by a series of cases of human trafficking covered by media. In 2012, a flow of immigrants from Central Asia, Uzbekistan in particular, in the direction of Adjara, including the Black Sea towns of Batumi, Gonio, Sarpi and Kvartli has extended. Overall, 27 brothels disguised under the names of hotels and cafes employing up to five hundred women of Central Asian origin were disclosed in Gonio in the summer of 2012. They mainly served nationals of Turkey as well as truck drivers.¹⁷ According to the data provided by the People's Harmonious Development Society (PHDS), over the past 14 months, its personnel have provided help to thirty women from Uzbekistan deprived of identity documents, who were willing to return home voluntarily. Seven of them were involved in trafficking.¹⁸ The findings of the investigative actions performed by law enforcement bodies with respect to the above facts have not yet been publicized.¹⁹

Several projects aiming at preventing trafficking in human beings and protecting its victims have been undertaken by non-governmental agencies and international organizations.

Since 2000, the International Organization for Migration (IOM) has been working on eliminating trafficking in Georgia. More than 15 projects²⁰ have already been carried out for the purpose of protecting victims of human trafficking and helping them to reintegrate into the society. These projects, inter alia, include the following:

¹³ Available at http://www.mof.ge/common/get_doc.aspx?doc_id=9676.

¹⁴ *Georgia within the US State Department report on trafficking in human beings*. Kupreishvili T. An internet news portal "Netgazeti." 28.06.2011. Available at <http://www.netgazeti.ge/GE/63/News/5552/>.

¹⁵ According to the data provided by the Ministry of Interior of Georgia, 12 offences of trafficking were identified in 2009, out of which only three were disclosed; in 2010 three offences were disclosed out of the eleven offences identified. Available at http://www.police.ge/uploads/statistika/shss_statistika/BIULETENI.GEO-2010w..pdf March, 2013.

¹⁶ "Georgia within the US State Department report on trafficking in human beings." Kupreishvili T. An internet news portal *Netgazeti*. 28.06.2011. Available at <http://www.netgazeti.ge/GE/63/News/5552/>.

¹⁷ "The Encouraged sex tourism in Gonio," by Turadze E. 19.06.2012. An internet news portal *Netgazeti*. 28.06.2011. Available at <http://www.netgazeti.ge/GE/105/News/10350/>.

¹⁸ An interview with Nazarova, the chair of PHDS held in the office of PHDS in March 2012. In order to assist victims of trafficking, PHDS has been working in Georgia since 2003. Within the framework of various programs, it provides (statutory) victims of trafficking accommodation, psychological counseling and information service, and adjusts the documents (return document) in case of the necessity of returning to their country of origin. The office operates a hotline service.

¹⁹ A radiocast program "Routes of migration," the topic - trafficking, a guest - Mark Hulst, the trafficking program coordinator, IOM, 16.04.2013. Available at <http://radio1.ge/media-view/11318>. A radiocast program "Routes of migration", the topic- trafficking and the threats of irregular migration, a guest - Mari Meskhi, director of the State Fund for the protection and assistance of victims of human trafficking, 17.01.2013. Available at <http://radio1.ge/media-view/10218>.

²⁰ Available at <http://www.iom.ge/ge/index.php?activities&counter&victims&photo>, March, 2013.

The IOM project "Teaching on Prevention of Trafficking in Persons at Secondary Schools in Georgia", within which IOM cooperates closely with the Ministry of Education and Science of Georgia and has introduced the anti-trafficking module into the national school curriculum;

IOM is implementing a project entitled **Capacity Building of government officials to combat trafficking in persons.** Under this initiative, training sessions are conducted for target personnel of law enforcement bodies, the judiciary, the Border Police and consular officers. IOM also cooperates closely with the Academy of the Ministry of Interior in building an institution of instructors within its own structure responsible for training police officers in the basic aspects of trafficking in human beings.

The IOM's Tbilisi office assists victims of trafficking in returning to their home countries, mainly by covering their travel expenses.

In collaboration with the State Fund and the Ministry of Interior, the IOM regularly publishes information booklets and produces social video advertisements for TV.

Within the framework of the projects **"Social Assistance to the Victims of Trafficking"** and **"Protection of the Rights of Children in Georgia as Victims of Trafficking,"** the local office of the international organization "World Vision International" has carried out trainings sessions, for the staff of the Ministry of Interior, for the purpose of identifying victims of trafficking and undertaking measures for combating trafficking of children more efficiently.²¹ The aforementioned organization has also been engaged in distributing special information booklets entitled "Become aware until you leave!"

Since 2009, the Ministry of Interior of Georgia has maintained an updated database titled "Do not become a slave!" on its website concerning trafficking in persons and combating irregular migration. It contains a legislative base, hotline numbers and links to all the international and non-governmental organizations working on the issues of combating trafficking and irregular migration.

In cooperation with the NGO "Tanadgoma" and with financial support provided by the OSCE mission in Georgia, the NGO "Article 42 of the Constitution" implemented **a project for the purpose of identifying and assisting victims of trafficking in Georgia (especially in Adjara region)** during the period 2006-2010.²²

In order to help raise public awareness, for the past few years, the organization PH International, funded by the USAID within the small grants program, has been carrying out a number of educational programs, which, inter alia, include the following: **"White Slavery in 21st Century," "Act against Trafficking," "The Truth about Trafficking"** and **"Do not harm yourself."**²³

Some more other projects in the area of combating trafficking in human beings have been undertaken by the Georgian Young Lawyers' Association²⁴, the International Center for Migration Policy Development, the International Labour Organization, non-governmental organizations including "Tanadgoma", "People's Harmonious Development Society" (PHDS), etc.

²¹ Available at <http://www.police.ge/index.php?m=453&newsid=148>, March, 2013.

²² Available at http://www.article42.ge/index.php?action=projects_item&proj_id=13&lang=geo, March, 2013.

²³ Available at <http://civics.ge/index.php?kw=%E1%83%A2%E1%83%A0%E1%83%94%E1%83%A4&m=5&x=0&y=0>, March, 2013.

²⁴ Available at <http://gyla.ge/geo/search?q=%E1%83%A2%E1%83%A0%E1%83%94%E1%83%A4%E1%83%98%E1%83%99&go.x=0&go.y=0>, March, 2013.

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CHAPTER 7

Emigration and Diaspora Policies

**Emigration and Diaspora
of the Republic of Armenia**

HAYKANUSH CHOBANYAN

Socio-Political Module

Abstract

Emigration is not separately emphasized in the “Concept for the Policy of State Regulation of Migration in the Republic of Armenia” (2010) as a priority direction. Issues related to emigration are captured in various emigration areas, such as labor emigration, illegal emigration from Armenia and etc. The emigration flows originating from Armenia are mainly composed of labor emigration flows therefore in this Note we have analyzed the policy pursued by the state on labor emigration. An immigration policy also is not set up in the Concept Paper as a separate issue, which is probably conditioned by the low immigration flows towards Armenia.

Nowadays Armenian Government is doing great efforts on keeping ties with Diaspora. Constitutional amendments, approved by the referendum in 2005, abolished the norm to ban dual citizenship. In 2008 the Ministry of Diaspora was established. In 2009 the Concept Paper on Development of Armenia and Diaspora Co-operation was approved by the Armenian Government and the Draft of the Concept Paper on Organization of Repatriation Process has already been developed.

Armenia did not have a state migration policy until 2000; the migration was regulated by the state mainly by legislation, i.e. law on citizenship, law on foreigners, law on state border, etc. For the first time the state policy on migration in Armenia has been formulated in the document “*Concept of State Regulation of Migration in Armenia*” which was adopted by the Government in November 2000. Hereafter, due to changes in migration situation and new migration challenges in Armenia, the Government revised and adopted new Concept Papers in 2004 and later on in 2010. For implementation of the Policy Concept Paper (2010) the Action Plan for 2012-2016 was first time adopted by the Government in November 2011¹.

Throughout history of Armenia as an independent state, emigration flow has always dominated in a whole migration picture, and being massive during 90s, gradually decreased up to nowadays. Thus, according to estimations, 1.0-1.1 million people emigrated from Armenia in 1988-2001, and 150.000 in 2002-2007 (UNDP Report, p. 46, 48). Since 2008 there has not been conducted any survey, but according to the statistics on passengers’ turnover², up to 20-30 thousand people have been annually emigrating from Armenia during aforementioned years.

Emigration is not separately emphasized in the Concept for State Migration Policy of Armenia as a priority direction. Issues related to emigration are examined in various emigration areas, such as labor emigration, illegal emigration from Armenia and etc.

In its turn, the emigration flows originating from Armenia are mainly composed of labor emigration flows, which form up to 70-75% of the total amount, while according to some surveys, they sometimes even reach up to 94% (Minasyan A., Pogosyan A., et al., 2008, p. 9).

Therefore, in this Note we have analyzed the policy pursued by the state on labor emigration.

Two previous Concepts approved by the Armenian Government in 2000 and in 2004 almost similarly outlined the objectives of the state regulation on labor emigration:

- Legal regulation and state targeted control over the phenomenon of labor emigration.
- Realization of state protection of the rights and legal interests of labor emigrants.
- Integration of the Republic of Armenia with international labor market.

The 2000 Concept Paper determined seven major directions for implementing aforementioned objectives, which are also divided into long-term and short-term implementation stages; the 2004 Concept Paper outlined only three major directions.

It should also be mentioned that practically no steps had been taken to implement aforementioned major tasks and mechanisms afterwards. The only exception is legislative regulation of the field: the Draft Law on Regulation of Overseas Employment was drafted in 2001 and hasn’t been adopted by the Government yet.

The last version (2007) of the draft Law³ aimed at preventing not only deceiving citizens or transferring those to foreign countries for employment through various illegal channels, but also at

¹ See: Chobanyan H. (2011) Evolution of the Policy Framework on Migration Issues in the Republic of Armenia since 1991 Analytical Overview. CARIM East-Consortium for Applied Research on International Migration. <http://www.carim-east.eu/media/Chobanyan.pdf>

² “State Migration Service of the Ministry of Territorial Administration of RA.” Accessed March 23, 2012, http://www.smsmta.am/?menu_id=18

³ “Concept Paper on Organization of Repatriation Process”, 2007 (in Armenian). [Արտագնա աշխատանքների կարգավորման մասին ՀՀ օրենքի նախագծի ընդունման հիմնավորում]

creating legal basis for the overseas employment to be implemented in a regulated manner and for the benefit of labor emigrants.

According to the draft Law, the state pursued mainly two priority goals:

The first one is to provide legal guarantees directed towards protection of the rights and interests of labor migrants. To ensure achievement of this goal, the companies involved in recruiting labor emigrants should be subject to licensing.

The second goal is to ensure study and marketing of labor markets of the foreign countries. To this end, the Draft Law stipulates those legal and organizational activities, which should be carried out by the Armenian Government, as well as the state authorized body in charge of coordinating the organization of labor migration, Armenian diplomatic representations and the embassies with the view of regulating overseas migration, starting from studying the demand and supply in labor markets of foreign countries and conditions for hiring of foreigners and ending with signing international intergovernmental agreements on regulation of overseas employment.

Since 2001, the Draft Law has been amended several times, taking into account the viewpoints of international experts as well. Nevertheless, it has not been approved yet. The main reason for not adopting the Draft Law so far is mainly explained due to the cautious attitude of politicians towards migration issues, particularly, those, which are related to regulation of overseas migration, since the perception of general public is that the Government actions only would encourage emigration from Armenia.

In the last Concept Paper (adopted in 2010), six priorities were identified to solve the problem of protecting rights and interests of Armenian citizens leaving for overseas employment⁴. The 2012-2016 Action Plan for Implementation of the Concept for the Policy of State Regulation of Migration in the Republic of Armenia (adopted in 2011) specifies concrete activities with their twenty five implementation actions aimed at targeting the aforementioned issue stipulated in the Concept, and State Migration Service of Armenia, the Ministry of Labor and Social Issues, and Ministry of Foreign Affairs of Armenia are outlined as main bodies responsible for implementation. Drafting legislative acts aimed at protecting the rights and interests of migrant workers are envisaged in the Action Plan for 2012-2016.

It should be also mentioned that the issue of regulating overseas employment is pointed out both in the Republic of Armenia Government Program for 2008-2012 and in the EU-Armenia Action Plan.

Besides, Armenia is a party to several international conventions and adjacent protocols on legal status of labor migrants, social protection of labor migrants, etc⁵. Armenia has signed also several bilateral agreements on labor migration issues⁶. However, these bilateral agreements have formal form in reality and none of them are operational, not only because there has been no consistent implementation, but because of a lack of appropriate mechanisms: the agreements have not even been updated from the time of the signature. The only exception is the case of Russia, as some measures are being undertaken⁷. Currently in the field of labor migration Armenia has cooperation proposals from

⁴ "Concept for the Policy of State Regulation of Migration in The Republic of Armenia" (2010), p.13.

⁵ ILO C97 Migration for Employment Convention, 1949 (ratified by Armenia in 2006), ILO C143 Migrant Workers (Supplementary Provisions) Convention, 1975 (ratified by Armenia on January 27th, 2006), 1996 European Social Charter (revised) (ratified by Armenia in 2004) 18-19 articles, CIS Agreement on Cooperation on Labor Migration and Social Protection of Migrant Workers (signed by Armenia in 1994).

⁶ Agreements on social protection of the citizens working in the territories of the Russian Federation (1994), Georgia (1993), Ukraine (1995) and Belarus (2000) were signed.

⁷ The joint Armenian-Russian working group was established and in the framework of this cooperation the Russian part has elaborated new Draft of Intergovernmental Agreement on a regulated recruitment of Armenian labour force for

countries of Persian Gulf, in particular State of Qatar and Oman. An agreement of involvement of Armenian skilled labor force (in particular healthcare workers) in the State of Qatar has been pre-signed. United Arab Emirates has also expressed an interest of bilateral cooperation with Armenia in the field of labor migration. In the context of European countries bilateral agreement negotiations are being undertaken with France and Bulgaria.

Taking into consideration the European integration as a political priority for the development of the Republic of Armenia, the mobility facilitation of people and stimulation and intensification of the contacts between the citizens of Armenia and the EU as important elements of Armenia's European rapprochement, the Joint Declaration on a Mobility Partnership between Armenia and the EU on was signed on October 27, 2011⁸. One of the potential benefits of Armenia-EU Mobility Partnership can be regulated labor opportunities and integration into the EU (in the participating MS), which will bring the Armenian migrant new skills and work experience, increased incomes, equal treatment and rights, the possibility of transfer of pension rights and which will bring Armenia as a country more foreign investment and trade links, transfer of remittances, know-how and innovations and the promotion of brain circulation (via circular migration schemes and increasing the role of the Diaspora communities in the development of their home country). However, there is no concrete step implemented in this framework up to this day.

An **immigration policy** as a separate issue is not examined in the Concept for the Policy of State Regulation of Migration in the Republic of Armenia as well, which is probably because of low immigration flows towards Armenia.

The immigration flows are partly included in two following directions of the Concept: *improvement of the asylum system and ensuring effective integration of foreign nationals within Armenian society once they are granted a refugee status as well as regulation of the employment conditions of foreign nationals in Armenia*⁹.

Currently the **Armenian Diaspora** could be divided into "Old" and "New":

- Many Armenian Diaspora communities emerged more in the beginning of the 20th century after the Genocide and mass deportations of Western Armenians from the Ottoman Empire. It is already a few generations that they live in their hosting countries as citizens of those countries. In case of these people, their belonging to the Diaspora is conditioned by their ethnic Armenian origin.
- Those, who left Soviet Armenia after the collapse of the USSR and Armenia becomes an independent state (since 1991), are considered as a New Diaspora members. Most of them still continue to be Armenian citizens.

Nowadays Armenian Government is doing great efforts on keeping ties with Diaspora. In 2008 the Ministry of Diaspora was established¹⁰. In addition, in 2009 the Concept Paper on Development of Armenia and Diaspora Co-operation was approved by the Armenian Government and addresses issues of protecting language, culture, religion, educational rights of each Armenian residing either in its motherland or elsewhere abroad, within the framework of international law, maintaining Armenian identity and tightening relationships between Armenia and Diaspora¹¹.

(Contd.) _____

employment in the territory of Russian Federation and presented to Armenian counterpart. Two meetings of the working group in question were held: in Moscow on 1-2 June of 2010 and in Yerevan on 15-16 June of 2011.

⁸ Ten EU Member States (Belgium, Bulgaria, the Czech Republic, France, Germany, Italy, the Netherlands, Poland, Romania and Sweden) participate. This is a flexible and non-legally binding framework for well-managed movements of people, and is expected to enhance Armenia's ability to manage migration, inform, integrate and protect migrants and returnees, as well as boost Armenia's capacity to curb irregular migration and human trafficking.

⁹ "Concept for the Policy of State Regulation of Migration in The Republic of Armenia" (2010), pp. 13,14.

¹⁰ "Ministry of Diaspora of the Republic of Armenia". Accessed April 25, 2012, http://www.mindiaspora.am/en/About_us.

¹¹ "Concept Paper on Development of Armenia and Diaspora Co-operation" (2009).

The 2008-2012 Government Program envisages drafting legislation conducive to repatriation and introducing a comprehensive program on immigration from Diaspora to Armenia. Currently, the Draft of the Concept Paper on Organization of Repatriation Process has already been developed, where development and implementation of the projects facilitating repatriation are emphasized as an important component of the state policy.

Another step to tighten ties with Diaspora was the Constitutional amendments approved by the referendum on November 27, 2005, which abolished the norm to ban dual citizenship and nowadays thousands of Diaspora members acquire Armenian citizenship while holding their ones as well.

The Armenian government also strongly promotes and facilitates mobilizing of migrants' assets to the development of the economy of the country. In 2006, the government worked out a project for creating a special All-Armenian bank in Armenia, which allows more efficient use of capital of the Diaspora in the development of Armenian economy. Construction of All-Armenian bank has already started in one of the small towns of the Republic - in Dilijan, which is planned to be turned into a major financial centre of Armenia.

In addition, "Hayastan" All-Armenian Fund¹² has been founded in Armenia since 1992, which regularly and annually organizes charity telethons, collecting donations of overseas Armenians, as well as the citizens of Armenia. The mission of the Fund is to unite Armenians in Armenia and abroad to cope with difficulties that country faces and to help establish sustainable development in Armenia and Nagorno-Karabakh.

¹² "Hayastan" All-Armenian Fund. Accessed April 25, 2012, <http://www.himnadram.org/>

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**Diaspora-Building
in Post-Soviet Azerbaijan**

SERGEY RUMYANSEV

Socio-Political Module

Abstract

In the early 2000s, the policy of diaspora-building noticeably intensified under the influence of then Azerbaijani President Heydar Aliyev. The new president, Ilham Aliyev (2003), inherited established institutions and developed practices of constructing an ethno-national diaspora. At the same time, under the new president, the political project for the construction of an Azerbaijani ethno-national diaspora started to be implemented with an even greater intensity.

The aim of this policy is to form a united and hierarchically co-subordinated bureaucratic structure (pyramid) of diaspora organisations. At the head of this bureaucratic diaspora is the Azerbaijani president (who heads the Coordinating Council of Azerbaijanis of the World) and also (a step down) the head of the State Committee for Work with Azerbaijani Diaspora.

In this way, the Azerbaijani political regime strives to control, as closely as possible, the activities of diaspora organisations. The authorities of the country of origin believe that diaspora Azerbaijanis should tell “the truth about Azerbaijan”. This “truth” refers, in part, to the success of the political regime that rules the country. But there is also the need to lead the country out of the “dark zone”, i.e. from the situation where few people internationally know that Azerbaijan exists. These (and some other) goals behind diaspora-building are subordinated to the most important of them: the diaspora’s fight for the resolution of the Karabakh conflict in favour of Azerbaijan.

Diaspora-building in Post-Soviet Azerbaijan

On 5 and 6 July 2011 a two-day event, the Third International Azerbaijani Congress, was held in Baku. The Congress gathered many delegates, representing the Azerbaijani nation. In fact, this meeting brought together 1272 deputies and guests from 42 countries. And this Azerbaijani Congress has once again demonstrated that its diaspora-building policy has developed its own traditions, established practices and institutions.

The leading role in the implementation of this policy belongs to the political authorities of the Republic of Azerbaijan. It should be emphasized that Azerbaijan is not the origin country for all ethnic Azeris, who form one homogeneous nation and diaspora within the framework of contemporary official nationalistic rhetoric in Azerbaijan. Officially, the Azerbaijani diaspora embraces all ethnic Azerbaijanis living outside the ‘historic homeland’. The ‘historic homeland’ (‘historic Azerbaijan’) includes, in addition to the modern Azerbaijan, the North-West of modern Iran, parts of Georgia and Russia (Dagestan). Therefore, the diaspora connects Iranian, Georgian, and Turkish Azeris. Official data says there are 50 million Azeris in the world and 10 million are part of the Azeri diaspora. The remaining 40 million live in their ‘historical homeland’ in Azerbaijan, in Iran, in Russian and in Georgia. This data and approach is proposed by the authors of the “Azerbaijani People Charter”¹. Ethnic Azeri immigrant activists in all these countries are willing and ready to cooperate with the authorities of Azerbaijan.

It can be argued that the main author behind the diaspora reconstruction policy was the deceased Azeri President, Heydar Aliyev. After he regained power in 1993 as the President (rather than as the First Secretary of the Communist Party of the Azerbaijan SSR), he established contacts with immigrants. Heydar Aliyev’s first visits to the EU, the U.S., Russia and other countries included meetings and talks with local ethnic Azeris (intellectuals, businessmen, ethnic activists). It was Heydar Aliyev, who prepared the ground for the Azerbaijani diaspora to come together as a bureaucratic

¹ The document in question aims to outline the Azerbaijani diaspora history, describe its official structure and diaspora-building ideology. At the moment the “Charter” is being drafted under the supervision of the State Committee on Azerbaijani Diaspora. I am referring to the draft “Charter”, which officials of the Committee have kindly shared with me.

institution, headed by him as a pan-Azerbaijani president. He was the one who invented the formula “One nation, two states” (meaning Turkey and Azerbaijan), in order to unite Turkish and Azerbaijani diaspora-building efforts.

In its current format, Azerbaijani diaspora-building is a political project, which had taken shape by the beginning of 2000s. In November 2001, following Heydar Aliyev’s initiative, the First International Azerbaijani Congress was held in Baku. The Congress finalized and formalized the idea of creating the State Committee for Working with Azerbaijanis living abroad. The Committee started operations in 2002 and Nazim Ibragimov became its undisputed leader. The First Congress also launched the Azerbaijani Coordination Council, headed by President Heydar Aliyev. The diaspora-building project’s efficiency is measured by the growing number of organizations and their progressive collaterally subordinated hierarchization.

Heydar Aliyev’s son and the current President, Ilham Aliyev inherited these already established institutions and developed practices of ethno-national diaspora-building. The only and rather symbolic novelty he introduced was that of renaming the State Committee for Working with Azerbaijanis living abroad into the State Committee on Diaspora in 2008. Ilham Aliyev succeeded as Head of the Azerbaijanis Coordination Council, and Nazim Ibragimov as the head of the State Committee on Diaspora. *De facto*, the single most important event for both, the country and its diaspora-building ideology, was Heydar Aliyev’s death in 2003. His idealized image as the “great national leader” has occupied central place in the remembrance policy, both in Azerbaijan and in among the diaspora. The Second International Azerbaijani Congress was held in 2006 in Baku and started with a screening of a documentary about the “great leader” (“We the Azerbaijanis”). Ilham Aliyev largely devoted his opening speech at the Third Congress, as is traditional at such events, to his fathers’ and the “national leader’s” deeds. He legitimately argued that it was Heydar Aliyev, who was the author and inspirer of diaspora-building.

In its present shape, at the base level of the Azerbaijani diaspora bureaucratic pyramid there are a variety of city and regional organizations. The next level is occupied by organizations, claiming to represent and coordinate activities with all Azerbaijanis abroad (German Azerbaijani Coordination Center, All-Russian Azerbaijani Congress and others). Further up, there are organizations, which allegedly coordinate Azerbaijani associations in several countries (European Azerbaijani Congress, Benelux Azerbaijani Congress) and worldwide (International Azerbaijani Congress). All these organizations, proliferating year after year, work closely with Azerbaijani embassies and the State Committee on Diaspora. These governmental institutions coordinate and guide diaspora organizations’ activities so as to comply with current domestic policies in Azerbaijan. As mentioned above, the International Azerbaijani Coordination Council is at the top of the pyramid and its members are elected during the International Azerbaijani Congress. The Council is headed by the President of Azerbaijan.

During the Third International Azerbaijani Congress the President assessed the efficiency of diaspora-building bureaucracy: “During the period since the First Congress, which is over 10 years, a lot of work has been done, the number of organizations has increased. Five years ago there were 336 diaspora organizations, today there are as many as 416. It is very important. But at the same time, numbers, perhaps, do not play a decisive role in this matter. I am very pleased that our diaspora organizations are reinforced and that quality-wise their activities have become more focused and efficient”².

Therefore, where it concerns political activities of the Azerbaijani diaspora organizations, if they are not headed, they are guided and coordinated by the political homeland. Remembrance policy and post-Soviet nationalistic ideology (“Azerbaijanism”) are applied to the diaspora too. Events, such as Azeris’ Genocide Day, a mourning date, commemorated by the diaspora on 31 March every year, have

² Ilham Aliyev’s speech at the Third International Azerbaijani Congress. Internet address, 5 July 2011. <http://ru.president.az/articles/2717>, 30 September 2011.

appeared in Azeri calendars in the post-Soviet period. Similarly the birthday of former President Heydar Aliyev (10 May) and the National Salvation Day (15 June) are celebrated. These dates are celebrated by the diaspora members, including those, who emigrated from Azerbaijan long before these holidays appeared on the calendar. The diaspora has also taken up the first holiday, officially adopted by Heydar Aliyev: International Azerbaijani Solidarity Day (December 31st). These dates and holidays have enriched diaspora activity, which previously focused on “Novruz” (Spring Festival) and Kurban Bairam celebrations.

Simultaneously, the Azerbaijani regime strives to control, as closely as possible, the activities of diaspora organisations. Azerbaijani authorities believe that the Azeri diaspora should, as noted before, spread “the truth about their country”. The “truth” implies the country’s ruling political regime achievements. And also the need to lead the country out of a ‘dark zone’ is declared, i.e. few people internationally know of Azerbaijan. These (and some other) goals behind diaspora-building are subordinated to the most important: the diaspora’s fight for the resolution of the Karabakh conflict in favour of Azerbaijan. To this end, various exhibitions and concerts, the days of Azerbaijani culture, as well as pickets and rallies are organized. As a rule, only a small number of activists are involved in these activities. And their impact on views in the EU and US is questionable. More likely, these activities mark an attempt to help the popularity of the ruling regime in the country. The political regime in Azerbaijan, in terms of diaspora-policy, becomes Azerbaijani-wide. In the best populist traditions, the regimes’ image is presented as carrying out the challenges and needs of all Azerbaijanis, as opposed to the spread of ‘Armenian rule’. Diaspora-building and cross-border Azeri unity are the most two important achievements of Heydar Aliyev that everyone should remember. And so that no one in the country forgets, the media constantly reports diaspora and diaspora-building achievements.

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**Policy on Migration
and Diasporas in Georgia**

NATIA CHELIDZE

Socio-Political Module

Abstract

Even though, due to Georgia's geopolitical location and its demographic and economic development, the migration process management is one of the priorities in the country, no migration policy and legislation for the regulation of this field have yet been formed at the state level in Georgia. Local politicians are well aware of the major importance of the labour migration from Georgia for the overcoming of socio-economic crisis in our country. The regulation and management of migration has become a significant part of the international obligations undertaken by Georgia. One of the considerable achievements of the current authorities of Georgia is liberalization of the movement to EU countries and the support to the circular migration. However, unfortunately, bilateral interstate agreements with the main countries of immigration for the legalization of labour migration have not been completed so far. It is still not distinct yet when the work on signing an agreement¹ on the residence of qualified professionals from Georgia and the circular migration with France having ongoing for the last few years, will be finalized. The proper assessment of the migration processes is not available because of the lack of the updated statistical database. Nevertheless, the state is taking major steps for regulating the registration of migration flows through the institutions and mechanisms established to serve this purpose. The gradual adoption of modern infrastructure provides for the efficient border monitoring, along with the already introduced secure identity and travel documents (the latest version of a biometric passport and a secure electronic identity card).

Currently, the state is pursuing liberal visa policy for the achievement of sustainable economic development, the improvement of an infrastructure for tourism and the attraction of additional investments. Although, the potential challenges accompanying the growth of the number of migrants, should also be taken into account. This process shall be taken special care of, so as to transform it into an incentive factor for the social and economic development, and to avoid the negative consequences of uncontrolled migration, at the same time.

¹ The main component of the agreement will be related to the creation of legal employment opportunities for Georgian citizens in compliance with the jobs (professions) demanded on the labour market in France, and the annual quotas, also the exchange of young professionals and qualification upgrade.

Policy On Migration And Diasporas In Georgia

Due to Georgia's geopolitical location and its demographic and economic development, the migration process management is one of the priorities in the country. However, no distinct migration policy² has yet been formed in Georgia despite that local politicians are well aware of the potential economic and demographic consequences resulting from large-scale labor migration. At the same time, they are aware of the benefits that could be derived from the remittances sent by the migrants to their country of origin, and the Georgian diaspora's contribution to this process.

In terms of the development of migration processes, Georgia is a country of both origin and destination and transit. Prior to the Rose Revolution, the need for migration regulation was not present in the political priorities of the ruling party. Several laws regulating the migration sphere at the time have been declared ineffective today³ or amended⁴ legislatively substantially. Since 2004, fundamental institutional reforms have been carried out and strategic goals for Georgia's foreign policy have been defined. In order to promote regional stability, the strategic document of Georgia's foreign policy for 2006-2009 sought to fight illegal migration and establish a respective legislative base⁵ for legal employment of Georgian citizens abroad.

The regulation and management of migration has become a significant part of the international obligations undertaken by Georgia. Migration regulation is one of the priorities in terms of cooperation between Georgia and the European Union⁶. The first step in this respect was the "Partnership and Cooperation Agreement"⁷ which came into force on 1 July 1999. A significant ground for cooperation has been established within the "European Neighbourhood Policy" and "EU-Georgia Action Plan"⁸ worked out by EU, which came into force on 14 November 2006. Migration is considered as an important sphere in the "Joint Declaration of Prague Eastern Partnership Summit"⁹ signed on 7 May 2009, as well as in the Joint Declaration on "Mobility Partnership"¹⁰ signed by the representatives of 16 EU member states and the European Commission and Georgia on the 30 November 2009".

² Migration Management Review in Georgia. IOM. Evaluation Mission Report. 2008. p.4

³ Law of Georgia on Immigration- 1993 (ineffective since June 1 2006); Law of Georgia on Emigration- 1993 (ineffective since February 1 2009); Law of Georgia of Temporary Entrance, Stay and Departure of Aliens in Georgia- 1993 (ineffective since June 1 2006); Law of Georgia on Migrants Inspection- 1998 (ineffective since July 1 2006); Law of Georgia on Migrants' Inspection Fees- 1998 (ineffective since July 1 2006).

⁴ Law of Georgia on the Regulations for Departure From and Entrance of Georgian Citizens to Georgia, #354, 7.12.1993.; Organic Law of Georgia on Georgian Citizenship, #193-I, 25.03.1993.; Law of Georgia on the Registration of and Issuance of an Identity Certificates and a Georgian Citizen Passport, #323-IIs, 27.06.1996.; Law of Georgia on Foreigners Legal Status, #2535, 27.12.2005.

⁵ Foreign Policy Strategy of Georgia for 2006-2009. http://www.mfa.gov.ge/index.php?lang_id=GEO&sec_id=35

⁶ Migration and Development in Georgia, in the framework of ILO - EU Funded project "Increasing the Protection of Migrant Workers in the Russian Federation and Enhancing the Development Impact of Migration in Armenia, Azerbaijan and Georgia", 2010. p.9.

⁷ European Commission, *Partnership and Cooperation Agreement (PCA)*.
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1999:205:0003:0038:EN:PDF>

⁸ *Georgia towards EU, Europe's Neighboring Policy: EU-Georgia's Action Plan*.
<http://eu-integration.gov.ge/uploads/ENPAP.pdf>

⁹ European Commission, *Joint Declaration of the Prague Eastern Partnership Summit*,
http://ec.europa.eu/external_relations/eastern/docs/prague_declaration_070509_geo.pdf

¹⁰ Swedish Presidency of the European Union, *Joint Declaration on a Mobility Partnership between Georgia and the European Union*, http://www.se2009.eu/polopoly_fs/1.25814!menu/standard/file/111580.pdf

From the viewpoint of migration, each step of cooperation between Georgia and the European Union is different in terms of its priorities, with migration becoming gradually more important. The cooperation comprises the issues such as: prohibition of illegal migration, modernization of border system, sharing information, fighting against transnational crime, identification of citizens and provision on their repatriation, development of academic programs for Georgian citizens, obtaining work permit and simplifying the visa regime.

“EU-Georgia Action Plan” aims to help spread gradually the “Four Freedoms” within Georgia, implying free movement¹¹ of goods, capital, services and persons. Unlike the first stage of the cooperation, the Action Plan represents a multifaceted document not only providing, in terms of migration, for overall safety but also mapping out specific activities facilitating migration management, the establishment of data base for monitoring migration flow, border management and the movement of physical persons.

The Joint Declaration of the Prague Eastern Partnership Summit aims at getting Georgia closer to EU. It intends to increase the mobility of citizens of partner countries by means of agreements on facilitation of visa application procedures and readmission. It also considers liberalization of the visa regime in every single country as a long-term objective of EU provided partner countries fully meet their obligations on security issues.

In November 2009, an agreement on cooperation within the framework of the “Partnership for Mobility” was signed between Georgia and EU. The “Partnership for Mobility” establishes a new form of temporary migration aimed at facilitating migrants’ integration in their host countries and reintegration in their own country. Apart from that, it takes into consideration legal employment of the citizens of Georgia in EU countries with the help of so-called “Circular Migration” which gives an opportunity to the citizens of Georgia to work temporarily in EU countries, obtain education and then return to their country of origin¹².

The outcomes of the successful cooperation within the “Partnership for Mobility” and the “Eastern Partnership” initiatives are the “Agreement between the European Union and Georgia on the readmission of persons residing without authorisation” and the “Visa facilitation agreement between EU and Georgia” which came into force on March 1, 2011.

The state regulation for migration management in Georgia comprises the following state agencies: the Ministry of Justice; the Ministry of Refugees and Accommodation; the Ministry of Internal Affairs; the Ministry of Foreign Affairs; the State Fund for Protecting and Supporting the Human Trafficking Victims; the interagency Coordination Council for the Activities for Struggling Against Human Trafficking; the interagency Government Commission for Migration Issues; the Ministry of Labor, Health and Social Protection; the Office of the State Minister for Diaspora Issues; the Office of the State Minister for Integration into EU and Euro-Atlantic structures; the National Statistics Office. The level and extent of the engagement of the above entities in the regulation and management of migration processes in Georgia are varied, depending on specific functions and competencies of any individual ministry (institution). Unfortunately, there is no single state agency responsible for the coordination of migration management nowadays. In addition, no rational system for collecting and analyzing the migration-related data and information has been established, with the data exchange mechanisms among the entities working on migration issues, not elaborated properly.

At the same time, the institutional reform undertaken by the Ministry of Internal Affairs of Georgia can be regarded as a successful initiative at the initial stage. In compliance with Georgian legislation, frontier migration management and state border protection fall within the competencies of the Patrol Police Department and Marine Police under the Ministry of Internal Affairs.

¹¹ EUROPA, *The EU at a glance*, http://europa.eu/abc/eurojargon/index_en.htm

¹² EU Integration, official opening of cooperation between EU-Georgia under EU initiative “Partnership for Mobility”

In order to draft overall policy line of Georgia's government for internal and external migration and improve the state system for migration process management in Georgia, a Government Commission for Migration Issues was established in fall 2010¹³. It comprises the following entities: the Ministry of Justice, the Ministry of Internal Affairs, the Ministry of Refugees and Accommodation, the Ministry of Foreign Affairs, the Ministry of Economy and Sustainable Development, the Ministry of Labor, Health and Social Protection, the Ministry of Finance, the Office of the State Minister for Diaspora Issues and the National Statistics Office (legal entity under public law).

The Government of Georgia aims to fulfill the international obligations undertaken by state and deal with all the migration-related processes by taking into account the best interests of Georgian citizens and the international community. Respectively, a work on drafting a strategy document for migration, expected to be approved by the government by fall 2012, is already underway. It will be followed by finalizing an action plan for migration management for 2012-2014 in late 2012.

The draft Strategy Document for Migration includes the following directions:

- Supporting legal emigration (providing assistance to Georgian citizens for emigrating legally, getting temporary employment abroad, also supporting educational exchange programs and raising awareness of the public);
- Supporting legal immigration;
- Fighting and preventing illegal migration (enhancement of struggling against human trafficking and illegal transfer of migrants across borders and improvement of relevant mechanisms, general public awareness raising, identification of legal deficiencies and their follow-up elimination, institutional development, improvement of inter-agency and international cooperation, implementation of preventive activities, improvement of shelter (refuge) system and the process of refugees' integration);
- Developing a refuge system (formation of a legal and institutional framework within the refuge system sphere, the working out of an efficient system for obtaining information on the country of origin, further improvement of the integration mechanism for refugees and the persons under humanitarian status and provision for their employment, education and healthcare, creation of favorable conditions for the persons leaving a reception center);
- Supporting Georgian citizens' repatriation and reintegration with dignity (provision for the implementation of the international treaties and national legislation with regard to the return of Georgian citizens, reintegration of Georgian citizens, strengthening of the capacities of the institutions involved in reintegration process and development of a legal framework, the increase of awareness with respect to reintegration, acknowledgement of the skills and education gained abroad).

The goals set within the Strategy Document for Migration shall be accomplished based on active cooperation with partner countries and international donor organizations in order to obtain financial and technical assistance.

Having the above in mind, a project titled "Targeted Initiatives for Georgia"¹⁴ is being carried out in Georgia under the "Partnership for Mobility" program. The executive partner of the project in administrative issues is the office of the International Migration Organization in Georgia, while on Georgian side the partner is the Government Commission for Migration Issues. The project pursues the following objectives:

¹³ Government Resolution of Georgia #314, 13.10.2010 on the Establishment of Government Commission for Migration Issues and Adoption of Its Charter.

¹⁴ Chelidze N. Returned Migrants Skills and Possibilities for Validation of non-formal and Informal Learning in Georgia . ETF. Study Report. 2011.

1. Enhancing government authorities' capacities in migration area, improving the legislative base and elaborating appropriate policy;
2. Providing support to the migrants returned to Georgia, through a Mobility Centre established under the Ministry of Refugees and Accommodation of Georgia in the following directions:
 - Elaboration of individual plans for reintegration;
 - Search for temporary accommodation and the rendering of emergency medical aid;
 - Identification of appropriate courses for vocational education and funding of tuition fees for VET programs in some individual cases;
 - Elaboration of business plans and in individual cases, their funding;
 - Employment.
3. Informing Georgian citizens residing in Georgia and abroad about available legal migration possibilities and programs in reintegration field available in Georgia.

As we could see, migration policy in Georgia is oriented toward supporting legal emigration of Georgian citizens and reintegration of the returned migrants, while immigration policy continues to be extremely liberal¹⁵; a visa regime is very liberal both in terms of visa categories as well as in relation to visa issuance at the borders – available for practically every nationality. There is no specific work permit system for foreigners in place, meaning that there are no limits to the employment of aliens who obtain residence permits simply on presentation of employment contracts, neither are any particular obligations imposed on employers as regards the employment of foreigners. Except for entry and exit, there is no further tracking mechanism for foreigners in place inside the country to verify “the change in status”, and so on.

This situation has to be addressed adequately by choosing to pursue balanced migration policy facilitating the inflow of foreign investments, the reduction of the possibilities for illegal migration, the incoming of low qualification labour force and getting of benefits from well-regulated legal migration overall. At the same time, the changes to the ethno-demographic correlation in Georgia's neighbour countries should be taken into account as well. This will result into emerging disbalance of migration potentials that can substitute emigration processes for immigration. This, in turn, can increase demographic pressure upon Georgia¹⁶.

The trend of the return of emigrant compatriots has attracted a worldwide attention, gradually becoming more organized in its nature (this can be observed in Georgia as well), with the increased willingness of states to achieve tangible outcomes in terms of carrying out civilized repatriation¹⁷. Strengthening cooperation with Georgian diasporas abroad has already become one of the major goals reflected within the Foreign Policy Strategy¹⁸ of Georgia, strategy documents for migration and the “Partnership for Mobility”.

In 2008, the Office of the State Minister for Diaspora Issues¹⁹ has been established in Georgia. Since that time, the Parliamentary Committee for Diaspora and the Caucasus Region Issues has started working on the affairs related to Georgian compatriots residing abroad. The joint efforts undertaken by

¹⁵ Review of Migration Management in Georgia. IOM. Appraisal Mission Report. 2008. p.4

¹⁶ Tukhashvili M. Migration Concept Should Be Drafted. Social Economy Magazine, 2006, #3.

¹⁷ Labor Market and Returned Migrants Reintegration. Study Report drafted under the “Consolidation of Reintegration Activities in Georgia” project. DRC, Migration Research Center of Tbilisi State University, 2011

¹⁸ Foreign Policy Strategy of Georgia for 2009-2012. http://www.mfa.gov.ge/index.php?lang_id=GEO&sec_id=562

¹⁹ As informed by the Office of State Minister for Diaspora Issues of Georgia, according to non-official data, the number of Georgians residing abroad is 1.600.000 (including Georgian citizens- 1.120.000, foreign citizens- 480.000), number of officially registered persons- 1.008.204. 142 diasporas organizations are represented in 15 countries.

these two agencies resulted in adopting a “Law of Georgia on Compatriots and Diaspora Organizations Residing Abroad” in 2011 (#5301-IIS, 24.11.2011.), a major step taken forward in this direction.

The Law, defining a legal status for the compatriots living in foreign countries, will come into force on March 1, 2012. The Civil Registry Agency of Georgia will issue respective status certificates. The status considers providing a few advantages: the certificate holders may enter the territory of Georgia without a visa; they can get state-funded general and higher education, while being able to participate in various targeted programs designated for diasporas and financed by state. Similar law has been functioning with success in India, which has the second largest diasporas worldwide. The introduction of a compatriot status in India encouraged to increase remittances, the frequency of visiting the country of origin and the investments made by diasporas. In compliance with the action plan for 2011 worked out by the Office of the State Minister for Diaspora Issues, some of the priorities of the Office, inter alia, included economy, education and culture²⁰. In terms of economy, the Office is planning to attract diasporas investments, arrange business forums and promote the attraction of labour migrants’ savings and investments into Georgian economy; propose and popularize specific projects based on active cooperation with respective state agencies. The Office of the State Minister has created a social network on internet (www.iamgeorgian.com), through which representatives of Georgian diasporas are enabled to establish appropriate social or business relationships.

To sum up, migration policy is developing gradually and enhanced institutionally in Georgia. This will help to promote the reduction of irrational, intensive emigration scale, legalization of migration, the rise of migration efficiency, return of migrants and their socio-economic reintegration in their country of origin, as well as the harmonization of migration policy in Georgia with the activities implemented by immigration countries in this field and the normalization of immigration processes.

²⁰ http://www.diaspora.gov.ge/files/154_2582_133997_prezentaciabolo%28PDF%29.pdf

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CHAPTER 8

The Discourses on Migration

**Migration Rhetoric in Armenian
Political Parties' Programs**

HAYKANUSH CHOBANYAN

Socio-Political Module

Abstract

Migration, and emigration in particular, is one of the most debated topics in Armenia. Since Armenia became independent after the collapse of the USSR, a multi-party system has been established. During these years the legislative developments in the migration sphere and adopted laws were not the initiatives of the political parties represented in the National Assembly but the legislative initiatives of the Government. The legal developments and rhetoric on the migration issues of political parties in the National Assembly of the fourth convocation (2007-2012) and the pre-electoral campaigns/programs/rhetoric of the political parties of the National Assembly of the fifth convocation (2012-2017) are declarative and general and do not touch upon the details of the regulation of migration issues and the realization of the programs suggested by them. Thus parties in their rhetoric seem to appeal emotionally rather than by trying to win the votes of the electorate through offering concrete change.

The activities of all political parties, save obviously the Communist Party, were forbidden during the times of the Soviet Union. On the collapse of the Soviet Union the Pan Armenian National Movement (*Hayots Hamazgain Sharzhum*) was established (in 1989) in Armenia and included thousands of representatives of different strata of the society, and this movement went after political objectives. Then, in the 1990s, the first traditional Armenian parties abroad¹ ("old" diaspora) began to move into Armenia, while many new parties emerged and a multi-party environment were properly established.

In 1990 the Supreme Council of ASSR (the Armenian Soviet Socialist Republic) made the Supreme Council of the twelfth convocation into the Supreme Council of the first convocation of the Republic of Armenia (RA). The political struggle for power gradually grew from that point onwards as parties began to nominate their own candidates and to question the internal and external policies of the authorities. One aspect of their rhetoric was migration caused by social-economic difficulties. In 1995 the Legislative Body of Armenia was renamed a National Assembly and in these stages and afterwards during elections and legislative activities political parties in Armenia made migration issues into slogans².

During these years the legislative drafts referring to migration and adopted laws did not mark the initiatives of the political parties in the National Assembly but rather the legislative initiatives of the

¹ Three main political parties were established in Diaspora in the nineteenth century. The *Armenian Revolutionary Federation* (also known as *Dashnaktcutyun*) was founded in Tbilisi in 1890. The party operates in Armenia and in countries where the Armenian Diaspora exists, notably in Lebanon where the *Armenian Revolutionary Federation* is considered the strongest political party within the Lebanese-Armenian community. The party adheres to socialism and is part of the Socialist International.

The *Armenian Democratic Liberal Party* or the *Ramgavar Party* (known as the *Armenakan* party before 1921) is an Armenian political party in Armenia and in the Armenian Diaspora including the Middle East, Europe, the Americas and Australia. The *Armenakan* party was one of the first parties established in the Ottoman Empire by the Armenian national movement. At the Armenian parliamentary elections 25 May 2003, the party won 2.9 % of popular votes and had no seats.

The *Social Democrat Hinchakian Party* is the oldest Armenian political party and was the first Socialist party in the Ottoman Empire and in Persia. It was founded in 1887 by a group of college students in Geneva, Switzerland, with the goal of gaining Armenia's independence from the Ottoman Empire, which is part of Armenian national liberation movement.

² The first elections of the National Assembly took place on 5 July 1995. Since 1995 four National Assembly elections have been held, and on 6 May, 2012 the elections of the National Assembly of the Republic of Armenia of the fifth Convocation took place. The National Assembly of Armenia has 131 deputies, which are elected by a majority and proportional electoral system. See the National Assembly of the Republic of Armenia <http://www.parliament.am/parliament.php?id=parliament&lang=eng>. Accessed 13 April 2012.

Government. For example, the author of the Law on Refugees (1999) and on Political Asylum (2001) was the Department of Migration and Refugees under the RA Government (today the State Migration Service). Likewise the Ministry of Foreign Affairs of the RA drafted the Law on Foreigners (2006), and the RA National Security Service the Law on the State Border (2001).

Perhaps the only exception has been the introduction of dual citizenship institute in Armenia. The Constitution of 1995 banned dual citizenship. But this was changed in a referendum in 1995. In 2007 in order to implement dual citizenship there were some legislative developments. In 2007, the Parliament of Armenia adopted amendments to the Citizenship Law, establishing dual citizenship. Legislation was supported by two of the three factions in Armenia's ruling coalition: the Armenian Revolutionary Federation and the Republican Party. It was widely reported that the Republican Party initially opposed the measure but reluctantly voted for it in the end. The third coalition partner, the United Labor Party (ULP), voted against it, ostensibly over disagreements on eligibility standards for dual citizens serving as Prime Minister and cabinet members³.

The National Assembly of the fourth convocation of the RA started its work 7 June 2007 and ran until 2012. In the National Assembly of the fourth convocation five parliamentary factions were established:

1. The Republican Party of Armenia (64 *Parliament Members*)
2. Prosperous Armenia (25 *Parliament Members*)
3. The Armenian Revolutionary Federation (16 *Parliament Members*)
4. The Rule of Law (8 *Parliament Members*)
5. Heritage (7 *Parliament Members*)

11 Parliament Members were not included in these factions.

According to the RA Constitution the government must include the majority of the Parliament Members. So, by voting for one of the party's voters not only elect MPs, they also entrust the country to an actual party or alliance of parties, allowing the creation of governmental coalition.

In 2008 a memorandum of political coalition was signed and a coalition government⁴ was formulated, in which the Republican Party of Armenia had a leading role. On 30 April 2008 the National Assembly gave its approval to the Government Program for 2008-2012.

The problems of migration, diaspora and repatriation exist in the pre-electoral programs of the parties and in their rhetoric.

“Republican Party of Armenia”⁵ in its 2007 program touched upon the problems of migration by referring to the Armenian diaspora: *“The state must create facilities to consolidate the potential of the Armenian diaspora, to strengthen the Armenian State with the objective of bringing back Armenians from all over the world to Armenia”*.

The prevention of migration (emigration) is considered an important issue in the program of **“Prosperous Armenia”**⁶ as part of the achievement of an effective, purposeful social policy in Armenia.

³ Policy Forum Armenia (2010) “Armenia-Diaspora Relations: 20 Years Since Independence”

⁴ “Հայաստանում համաձայնագիր է ստորագրվել կոալիցիոն կառավարության ձևավորման վերաբերյալ” [*Agreement on government coalition formation signed in Armenia*] in Panarmenian.net, 29 February 2008. <http://www.panarmenian.net/arm/news/25037/>. Accessed 24 March 2012.

⁵ Web page of the Republican Party of Armenia. <http://www.hhk.am/en/>. Accessed 24 March 2012.

⁶ Web page of the Prosperous Armenia party. <http://www.bhk.am/>. Accessed 25 March 2012.

In the program of “**Heritage**”⁷ “a reduction in migration from Armenia and a spurring of repatriation” is the main objective, but the methods to achieve this are not described.

There is no reference to migration problems in the programs of either “**The Rule of Law**”⁸ or the “**Armenian Revolutionary Federation**”⁹.

Despite migration being a very topical issue in Armenia, political parties have not referred much to the regulation of migration problems either in their pre-electoral programs or during their activities in the National Assembly. Even those parties which have touched upon migration problems in programs and speeches have not posed any legislative initiatives in the last parliament (2007-2012). The only exception is the draft law “On Repatriation”¹⁰, which was presented during the subsequent hearings of the National Assembly in 2011 but which has not been accepted yet. The author of the draft law is the RA Minister of Diaspora who is a member of the Republican Party of Armenia as well as a member of the Republican Party’s Council.

In 2010 and 2011 much energy was put into the regulation of migration issues. During this period several legislative and policy documents were worked out, particularly, the “Concept for the Policy of State Regulation of Migration in the Republic of Armenia” (approved by the protocol decision №51 30 December 2010). Then “The Action Program for Implementation of the Policy Concept for the State Regulation of Migration in the Republic of Armenia in 2012-2016” were elaborated by the State Migration Service of the RA and adopted by the Government. It should be mentioned that this was the response to obligations undertaken within the ENP (European Neighborhood Policy) and did not directly relate to the activities of the political parties.

All political parties, without exception, discuss migration problems. The topic is being discussed by both governing and opposition parties and migration is often employed to beat the government for supposed failings.

In the 6 May 2012 elections nine political parties participated; five of which had already been in the National Assembly. The following migration related issues were included in their pre-electoral campaigns/programs of 2012-2017:

1. “the **Republican Party of Armenia**”¹¹ continues to pose questions on the Armenian Diaspora. Hence, in the program “National unity, strong Diaspora” the RPA writes: “*Using the institution of dual citizenship and the repatriation program we are going to create a favorable environment in order to abet the involvement of the diaspora in the economy of Armenia*”. It also demands: “*Let’s change the conditions of life, create new opportunities for people to work and earn money, help win justice everywhere, eliminate poverty, migration, and modify return migration to the homeland and fill the citizen of the Republic of Armenia with infinite faith towards his/her motherland and his/her future.*”
2. “the **Prosperous Armenia**” in the section “Employment as a main way of preventing the migration” we read “*the main condition of preventing migration from the country is to raise the level of the employment for which the country must take up some obligations and gradually add to the volume of those obligations. “Prosperous Armenia” stands by its slogan “Next to everyone, by everyone and for everyone” and will do its best to give solution to the issues related to the elaboration and realization of state programs on employment, improvement of self-employment mechanisms, increasing professional abilities and creation of*

⁷ Web page of the Heritage party. <http://www.heritage.am/en>. Accessed 25 March 2012.

⁸ Web page of the Rule of Law party. <http://www.oek.am/official/>. Accessed 24 March 2012.

⁹ Web page of the Armenian Revolutionary Federation. <http://www.arf2012.am/>. Accessed 24 March 2012.

¹⁰ Web page of the National Assembly of the Republic of Armenia: http://www.parliament.am/draft_history.php?id=5019&lang=arm. Accessed 24 March 2012.

¹¹ Political Program of the Republican Party of Armenia: <http://hhk2012.am/arm/program/>. Accessed 11 May 2012.

working places. The individual must be protected in their country and in order to be protected they must have a job, enabling them, as far as possible, to take care of their family's concerns, renouncing the intention of reaching well-being in other countries".

3. **"the Armenian Revolutionary Federation"**. In the section "Salary, social defense, demography" there is written: *"An active demographic policy will be carried out to raise the birthrate, to reduce mortality, to prevent migration and to encourage immigration. As a result, every year the population will grow on average by 50,000"*. According to one of the last points of the pre-election program of "the Armenian Revolutionary Federation" *"comprehensive projects on the repatriation and resettlement of Artsakh will be implemented"*.
4. **"the Rule of Law"** - In the pre-electoral program of this party it is written that: *"The creation of workplaces is the most important social-economic issue. It is the way to overcome poverty, to prevent migration and to shape a worthy mode of life"*¹². With the view of creating new working places twelve "extremely urgent and important" measures are listed, the first three of which are as follows: the drafting and implementation of National Strategy "On working places and worthy/deserving salary"; adopting and implementing a five-year program on unemployment reduction and creation of working places according to branches of economy and places of residence; and the drafting and implementation of employment projects.

The issue related to the integration of refugees is also underlined and there is a suggestion *"to draft and implement a state-targeted project on the prevention of emigration and a contribution to repatriation"* in the part of the program entitled "Homeland-Diaspora".

5. **"the Heritage"**¹³ - In the section of "ruling justly, affirmation of legitimacy, justice and the struggle against corruption" some legislative and executive steps are suggested with regard to immigration: *"To secure the return of many migrants to Armenia from which the balance of the migrants in Armenia will become positive, on average 100,000 people per year. To secure at least a population of at least four-million over the next ten years and a five-million population over the next fifteen years". This is a basic necessity for the state and public security of the Republic of Armenia. The inability to guarantee the relevant balance of immigration and emigration, approved for each year in office, will be equivalent to a failure of the President's duties, and will lead to his unconditional resignation"*.

And in the chapter "Economic development, creation of workplaces, an opportunity for respectable work" we find written: *"after the modulation of tax legislation the tax burden will be transferred from small businesses to large businesses, which will abet the creation of additional workplaces, a change in the economic structure and also the prevention of migration"*.

In the section "National Security and Defense" it is written that the problems concerning the well-being of all our compatriots are also in the framework of Armenia's national security.

In order to reach those goals a number of legislative and executive steps are listed:

1. "Extension of effective and multilateral relations with the Diaspora, harmonization of strategies a view to preserving national goals of Armenia, Artsakh and the diaspora".
2. "Carrying out complex measures in order to improve the demographic situation, to foster the natural growth of the population and to reduce the migration level."

In order to achieve this objective "Heritage" envisages the following initiatives:

¹² Political Program of the State of Law Party: <http://www.oek.am/official/index.php/2012-01-27-10-47-18/2012-04-13-12-21-32>. Accessed 24 April 2012.

¹³ Political Program of the Heritage Party: <http://www.heritage.am/hy/about/election-program>. Accessed 17 April 2012

1. to adopt the Law “On Repatriation” with a view to promoting repatriation and resettlement in order to coordinate these processes with concrete obligations undertaken by the state, as well as stipulating the mechanisms for solutions to housing and the social issues of returnees.
2. to reconsider the functions of the pan-Armenian foundation “Armenia” transforming it into an institution contributing to Armenia-Diaspora cooperation, the activities of which will be supervised through Armenian society and diaspora collaboration.
6. “the **Armenian National Congress parties’ alliance**”¹⁴ is the opposition political power, which touches upon the migration issues more often employing them as a means to criticize the authorities. In its different programs and rallies the leader of ANC has often spoken about the dangers of migration. And to ameliorate the general condition of the country ANC offers a few programs: “100 steps/measures”; systemic transformation program of social-economic policy; pension reform plan; platform for the reform of the electoral process; industry development program; and urgent measures to promote agriculture.
7. “the **Communist Party of Armenia**”¹⁵ - “*Nationalize all strategic sectors, mineral resources, the deposits of the earth, alcoholic beverages, petrol, bread and other things, which will promote the provision of new jobs and immigration issues. Centralize all this in the hands of the state and nation which will foster the elimination of unemployment and migration*”.
8. “the **United Armenians**”¹⁶ - “*Prevention of emigration and the return of compatriots, taking into account the political, economic, moral and social transformations caused by injustice, corruption, unemployment and other negative phenomena. As a result of constantly increasing emigration it is very important for “United Armenians” with its intellectual, scientific, moral, legal and economic power and the ability to struggle against negative phenomena pushing people to the edge of poverty. “To commence a struggle against the negative phenomena which have led the nation to the edge of poverty, against emigration and trafficking*”.
9. “the **Democratic Party of Armenia** ” has also touched upon migration issues in its pre-electoral campaigns and has made some suggestions to prevent migration from Armenia.

In conclusion:

- all parties touch upon the migration/emigration issues in their pre-electoral campaigns during the parliament elections in 2012;
- however, those issues do not differ from the approaches of 2007-2012 parliamentary parties’ programs;
- they are mainly declarative and general (e.g. *prevention of emigration, promotion of immigration, return of compatriots to Armenia*) and they do not touch upon the regulation of migration issues (e.g. *mechanisms, necessary means for their implementation and legal acts to be drafted and etc.*) and the carrying out of programs suggested by them.
- the topic of migration is one of the most urgent and challenging issues within Armenian society, thus parties crank up the rhetoric looking for an emotional response (e.g. *to prevent migration, to ensure the return of 100,000 people to Armenia...*) thus trying to win the sympathy and votes of the electorate.
- it should also be mentioned that whenever the government drafts any law related to migration all political parties agreed and there were no cases of opposition by any party.

¹⁴ Political Program of the Armenian National Congress: <http://www.anc.am/en/>. Accessed 10 May 2012.

¹⁵ Political Program of the Communist Party of Armenia: <http://norkhosq.net/category/general/>. Accessed 20 April 2012.

¹⁶ Political Program of the United Armenians Party: <http://www.mhk.am/en/>. Accessed 20 April 2012.

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**Political Parties and Migration Issues in Azerbaijan:
Discussions about Migration Attractiveness of the Republic
and Problems of Compatriots Abroad**

SERGEY RUMYANSEV

Socio-Political Module

Political landscape of Azerbaijan after the collapse of the Soviet Union comprises over fifty parties, various political associations and movements. Meanwhile, elections to the Parliament (Milli Majlis) demonstrate the growing trend towards gradual homogenization of the composition of this legislative body. After the former First Secretary of the Central Committee of the Communist Party of Azerbaijan Heydar Aliyev returned to power in 1993, most seats in the Parliament were usually gained by representatives of the ruling party “Yeni Azərbaican Partiyası” – party “New Azerbaijan”, hereinafter referred to as YAP. The new president İlham Aliyev became chairman of this party after Heydar Aliyev's death. As a result of the latest elections control of the ruling political regime over the parliament came to its ‘logical’ conclusion. 72 out of 125 MPs are representatives of the ruling YAP. 5 MPs demonstrate the multiparty nature of the Parliament, representing pro-governmental parties Civil Solidarity Party (3 seats) and Motherland Party (2 seats). The remaining 48 seats were gained by the so-called independent MPs. Representatives of the leading and most famous opposition parties, such as Musavat (Equality) or Azerbaijan Popular Front Party did not gain any seats in the parliament for the first time¹.

Many experts point to imitative nature of democratic transformations in most of the post-Soviet space. Similar approach is also applicable to the description of the Azerbaijani political regime. Multiparty system and Parliament (and especially elections) play a key role in this policy of imitative democratization of political climate in the country. As a result MPs representing either the ruling party or pro-governmental parties and the so-called independent MPs in the Parliament do not introduce anything new to the debate on migration. Activities of the members of Parliament are mostly associated with approval of laws drafted by the government, the content of which as a rule is not seriously debated or criticized.

Migration policy is not in the focus of parliamentary discussions. During the time of the previous (third convocation) Parliament problems of migration were discussed only several times over five years. Most speakers made their contribution to the official discourse about economic prosperity of Azerbaijan. In fact, lately migration processes involving population of the country were all discussed from this perspective. Thus, for instance, in summer 2008 the Parliament discussed amendments to a number of legal acts associated with the law “On legal status of foreigners and stateless persons”. They talked about supplementing the law “On departure from the country, entry to the country, and passports”. These laws define the terms of stay of foreigners in the country (residence permit), their status (including the prospects of obtaining Azerbaijani citizenship), fines for those who violated the law etc.

Rabiyyat Aslanova, well-known member of Parliament (YAP) and chairperson of the Permanent Commission on Human Rights, claimed in the context of official ideological discourse that Azerbaijan was turning into an attractive country for foreigners and stateless persons and that it was necessary to observe their rights and create decent conditions for them. In her point of view, it is possible to create conditions in Azerbaijan that will be more attractive for immigrants than in some European countries. Panah Huseynov (Freedom bloc) on behalf of the opposition that in the parliament of the previous convocation was still represented by several MPs expressed concern about problems of foreigners – ethnic Azerbaijanis who are citizens of Georgia, Russia, other CIS countries, and Iran. He talked about the issue of granting them double citizenship and special status and suggested to discuss these issues during the next meetings². However, this discussion was not taken further. In fact, these statements of two MPs (representing the ruling regime and the opposition) demonstrate the whole range of issues that were discussed in the parliament.

¹ See information about the composition of the latest Parliament convocation in “New composition of Milli Majlis – a long forgotten reminder about Soviet times”, Downloaded from http://contact.az/topics_ru.asp?id=3747&pb=2&vr=ru&yr=2010&mn=11&day=8&mdn=1, on 30 March 2012.

² Meeting of the third convocation of the extraordinary IX session of Milli Majlis of Azerbaijan. Protocol No. 88, 24 June 2008. The meeting under the chairmanship of the first deputy speaker Z. Askerov, Downloaded from <http://www.meclis.gov.az/?/az/stenoqram/148>, on 30 March 2012.

It would be an exaggeration to claim that migration policy plays a crucial role in domestic political struggle and political discussions outside the Parliament. That is why one should not be surprised that migration policy issues are not touched upon in political party programs (both ruling bloc and opposition parties)³. And when problems are mentioned, they are usually issues associated with refugees and displaced persons, i.e. with the Karabakh conflict. In this context one can observe both solidarity of perceptions and serious divergences in positions of ruling parties and political opposition. On the one hand, both the former and the latter believe it necessary to constantly (on every occasion and all the more so at international events) mention this issue. As a rule both the former and the latter talk about a million or more refugees and displaced persons⁴. Both regard this problem as a key one for post-Soviet Azerbaijan. However party members representing authorities often mention this problem in response to criticisms with regards to authoritarian governance style. I.e. according to their version, refugees and displaced persons represent a serious obstacle for democratic transformations. One first needs to resolve the conflict and hence the problem of refugees and displaced persons and only after that real democratization will become possible. Opponents of incumbent authorities claim that the regime is only using this problem to justify its authoritarian governance style. In general, the problem of refugees and displaced persons is most frequently heard in populist discourse of both the leadership and political opposition.

The leadership represented by YAP members claims that Azerbaijan is developing so quickly that the country has turned from a migrant donor into the country attractive for labor migrants. Opposition sometimes mentions hundreds of thousands of emigrants from the country and asks a question that has become almost rhetoric: why do some many people leave the country in search of jobs, if Azerbaijani economy is flourishing? However, let us emphasize that the issue of migration is not the main focus of these discussions. Intensity of domestic political struggle is defined by the Karabakh conflict, problems of de facto reversal of democratization, as well as corruption of the ruling regime. In the course of these sometimes very heated discussions opposing forces do not have energy left for serious discussion of migration policy.

The main features of public statements of the members of Parliament or opposition party members who did not make it into the latest Parliament convocation are populist statements that ministers cannot afford. In such statements party members talk about previously mentioned issue of compatriots abroad. Here we are not talking about labor migrants from Azerbaijan. It is important to understand that in the context of post-Soviet nationalism contemporary Azerbaijan is described as part of 'historical home country' for Turkic people of Azerbaijani. In the context of this ideology significant

³ See, for instance: The Program of the New Azerbaijan Party, Downloaded from <http://www.yap.org.az/view.php?lang=en&menu=73>, on 30 March 2012. There are no special references to migration policy in the programs of pro-governmental parties.

⁴ According to Alovat Aliyev: "At present there are over 300 thousand naturalized refugees and 760 thousand displaced persons in the territory of Azerbaijan" (see Aliyev A. (2008), Institutional Resources for Return of Displaced persons in Different Scenarios of Conflict Settlement in Azerbaijani Republic, in: *Problems and Prospects of Refugees' / Displaced Persons' Return to Conflict Regions of South Caucasus*, Caucasus Institute for Peace, Democracy and Development, Tbilisi 2008, 62-84, p. 87).

According to another version, that is voiced, for instance, by Irada Huseinova, "Today the international community is told that in Azerbaijan one million refugees and displaced persons. President, members of government, followed by politicians, members of the national parliament and some mass media all the time repeat this figure <...> But even if we sum up the number of refugees from Armenia and displaced persons, it will turn out that one million is an exaggerated figure. According to the latest official statistics, the number of displaced persons is estimated at 568,989 persons, refugees <...> 219,776, the total of 788,765 persons, but definitely not a million. Even if we add Meskhetian Turks, we will only get 850 thousand people. However, official data of Goscomstat <...> also raise doubt of many international organizations. <...> according to the data of UNHCR and International Organization for Migration, there are only 782 thousand refugees and displaced persons in Azerbaijan today" (see: Huseinova I. (2001), Refugees, their position and role in contemporary Azerbaijani society, in: ed. by D.E. Furman, *Azerbaijan and Russia: Societies and States*, Moscow, p. 323 – 336. Downloaded from http://www.sakharov-center.ru/publications/azrus/az_011.htm on 30 July 2012).

groups of Azerbaijani Turkic people residing in Georgia or Iran, are considered as ‘our compatriots’⁵, residing in ‘historical territories’ that did not become part of independent Azerbaijan due to ‘historical injustice’. ‘Their fate’ often triggers statements by various party functionaries.

Thus, for instance, in June 2009 the Parliament discussed working visa fees. Nasib Nasibli (opposition party Musavat), who took part in discussion of the new immigration laws, noted that the ‘one stop-shop principle’ had alleviated problems of foreigners.

“But due to these changes our compatriots residing abroad faced problems. First, the fee went up. A certain part of my voters come from Borchali [this is how Azerbaijanis traditionally refer to a number of regions of Georgia, now making up part of the region of Kvemo Kartli, S.R.], that is why I am familiar with the situation. I already brought this matter up during the previous sessions. Azerbaijanis coming from Borchali are mainly labor migrants, they are not highly qualified workers, and for them the sum of 1000 manats⁶ a year is very high, and so are other associated expenses. Let us assume that such a migrant invites his mother, then she must exit the republic every three months. We are not talking about granting them Azerbaijani citizenship, as far as they are labor migrants. The same situation is with those who come from Derbent (the city in Dagestan, Russia, where a large Azerbaijani community resides). In my point of view, approach to this problem ought to be fundamentally changed. In many countries of the world there are other categories of residents in addition to citizens. For instance, in the USA there are persons with residence permits and persons of the third category. In Turkey, along with a citizen of Turkey, there is a category designated as “Turks”. They have some advantages, in education, for instance. In Azerbaijan there are no such categories. I am putting forward a proposal to introduce into further discussions such categories as foreign Azerbaijani and Turkic foreigners and to recognize their advantages.

Speaker of the Parliament of this and the previous convocation who chaired this meeting Oktay Asadov responded that that “In the whole world there is a practice of visas no longer than 3 months. In Turkey, for instance. As for your proposal, one should take into account that there are ten times more Azerbaijanis residing abroad than Azerbaijanis residing in Azerbaijan”⁷.

Let me emphasize that it would be wrong to think (stemming from this cold response of the speaker), that deputies from the ruling party are not concerned about ‘our compatriots’. Thus, for instance, Zakhid Orudzh from pro-governmental Motherland party publicly stated on numerous occasions that Azerbaijanis in Georgia are a discriminated minority⁸. He also called upon Azerbaijani authorities to render assistance to ‘Azerbaijani diaspora’ in the neighboring republic.

Therefore, public expression of concern about the fate of ‘compatriots abroad’ is the main thing that distinguishes debates in the Parliament and party struggle from the statements voiced in the context of official state migration policy.

⁵ In February 2012 a proposal was made by the Member of Parliament H. Huseynquli to rename the republic into North Azerbaijan. In the republic it is common to use the name South Azerbaijan to refer to North-Western territories of contemporary Iran. This proposal did not meet any serious objections in the Parliament. See: “Azerbaijan or North Azerbaijan”, Downloaded from <http://www.contact.az/docs/2012/Analytics/02071410ru.htm>, on 30 March 2012.

⁶ Manat is a currency unit of Azerbaijan. The currency exchange rate is approximately 1.30 USD for 1 manat.

⁷ Meetings of the third convocation of extraordinary XII session of Azerbaijani Milli Majlis. Protocol No. 119. 30 June 2009. Under the chairmanship of the parliament speaker O. Asadov. For detailed information see: Downloaded from <http://www.meclis.gov.az/?/az/stenoqram/180>, on 30 March 2012.

⁸ Azerbaijanis in Georgia are subject to discrimination – Deputat, <http://www.georgiatimes.info/news/54920.html>, on 30 March 2012.

**Migration in the Agendas/Programmes of Political Factions and
Political Parties in the Parliament of Georgia, 2011**

NATIA CHELIDZE

Socio-Political Module

Introduction

Even though migration regulation and management have become a major part of the international obligations assumed by Georgia, the discussion about the submission of migration processes within a legislative framework has been reflected only in international treaties and Georgia's foreign policy strategy document. The migration issues have been covered scarcely in the agendas of political parties.

This analyses provides a coverage of pre-election programs of the political parties and political platforms of the parliamentary factions operating actively in Georgia. The programs of parties in international affairs have not differed much from each other. The Republican Party was first to have emphasized the necessity of migration regulation and labour migration legalization overall in its party program prior to the parliamentary elections in 2008. The cooperation established between the EU and Georgia is being transformed into partnership relationships of a new kind. In parallel to this, the control of migration processes, the facilitation of migration legalization and the strengthening of ties with diasporas are emerging as some of the priorities in the activities of the ruling party and the opposition associations. The priorities have been formulated so concisely within the programs of the factions present at the parliament of Georgia today that it prevents migration issues from being specified in detail. However, each of these programs establishes enhanced socio-economic cooperation with neighbor countries and the protection of citizens' rights as the main priority. The parliament of the last convocation has approved legislative amendments, which regulate the rules for departure and entering Georgia for Georgian citizens, the legal status of foreigners in Georgia, the matters of registration of Georgian citizens and issuing of an identity (residence) card to a foreign citizen residing permanently in Georgia, as well as issues related to the passport of a citizen of Georgia and obtaining an emigration permission, etc. A Law on Compatriots Residing Abroad and Diaspora Organizations (#5301, 2011) has also been adopted, which defines the state policy and principles of Georgia for compatriots living abroad, and diaspora organizations. The discussion of the above draft laws was held without any debates at the parliament since the principles proposed under these legislative initiatives turned out to be acceptable to both parties- the ruling and the opposition forces.

Before starting reviewing the programs of the political parties in Georgia, let us overview the political party system¹ of Georgia during the last two decades i.e. the period of Georgia's independence.

By looking into the results of a series of parliamentary elections held since Georgia's independence, we can see that many parties used to take part in the past elections, whilst only their small portion could overcome the pre-determined election barrier and gain respective mandates. From one to another election, the number of the political parties has increased² steadily. The political alliance Round Table- Free Georgia was a dominant party during the first elections.

The second stage (1992-2003) was more prolonged. After Eduard Shevardnadze's return to power in Georgia, the rearrangement of political forces within Georgia's party system occurred. As a result, the majority of the political parties united within the Round Table alliance, had almost vanished from the political arena. They had been replaced by completely different political parties, inter alia, including the Citizens' Union of Georgia, the Labour Party, the Democratic Revival Union, the Socialist Party etc. Only the National-Democratic Party (the People's Party was formed later from it), the Republican Party, the Traditionalists and a few other parties had survived from among the political forces operating prior to the rearrangement. In late 1990s, the right-wing young politicians broke away from the Citizens' Union of Georgia and formed a new party- the New Rights. Later, in 2002, the young reformers united within the Citizens' Union, laid the foundation to the establishment of two new parties: the United National Movement and the United Democrats. In 2001, the Conservative Party was established, which, together with several other opposition parties formed a united political opposition, the so-called National Council in 2007. In 2009, a new party, the Free Democrats was founded, which had been a member of the Political Alliance for Georgia together with three other parties (the New Rights, the Republican Party of Georgia and the Way of Georgia Party)³. In February 2012, the political coalition Georgian Dream was established, which nowadays incorporates four political parties: the Georgian Dream- Democratic Georgia, the Republican Party of Georgia, the Free Democrats and the National Forum⁴.

The "Rose Revolution" of November 23, 2003 was a distinct manifestation and consequence of the economic, social and political crisis existing in the country in that period. The "Rose Revolution" once again reshaped the party system in Georgia. Major parties (enlisting many members) - the Citizens' Union of Georgia and the Union of Georgia's Revival ceased functioning on the political arena. The United National Movement emerged as the dominant party at the third stage of the political history of independent Georgia (since 2003 up to present). In the 2008 pre-term parliamentary elections, the Unified Opposition (National Council, Rights), which united almost all the active political groups (the New Rights, the Freedom Party, the Movement for United Georgia, the National Forum, the People's Party, the Way of Georgia Party, the Conservative Party, political party Chven Tviton (We On Our Own party), political party Kartuli Dasi (The Georgian Team), excluding the Republican, the Christian Democratic and the Labour parties, confronted the United National Movement of Georgia.

Respectively, the following parties have seats in the Parliament of Georgia currently: the ruling party- United National Movement (holding a majority of mandates) and also, the Conservative Party, the Republican Party, the Labour Party, the New Rights, the Christian Democratic Party, the political party Chven Tviton, political party Kartuli Dasi, the Free Democrats and the National-Democratic Party, each holding one or two mandates. In compliance with the existing political attitudes, there

¹ Political Parties and Party System of Georgia in the Period of Democratic Transformation. A scientific-public journal "Modern Politics". <http://politscience.ge/index10.html>

² According to the data provided by the Ministry of Justice, over 200 political parties are registered in Georgia today. Out of them, only some 10-15 parties are operating actively, while the rest of the parties are unfamiliar to Georgian public.

³ On February 23, 2009, the "Alliance for Georgia" was established, comprising the Republican Party, the Rights and the political team of Irakli Alasania, headed by the latter. On April 9, 2009, the Way of Georgia party joined the Alliance.

⁴ The political union "National Forum" was established in November 2006.

were formed the following parliamentary factions: the United National Movement and the Regions of Georgia, together constituting a parliamentary majority (85%). As for the Parliamentary minority, it is represented by the factions – the Powerful Georgia, the Christian Democrats and the Unity for Justice.

While studying the priorities of the activities planned by these political factions, it can be highlighted that despite the active discussion about the necessity to develop migration policy, initiated especially by representatives of the ruling party, the migration regulation issues appear less within the scope of the work of these factions.

- Only one point- “The Integration in NATO and the European Structures“ can be observed in the list of the main priorities of the activities followed by the parliamentary faction the Regions of Georgia, which implies, as the faction members interpret it, all the issues related to supporting a free movement of humans.
- In order to help reform the existing socio-political system in the country and establish a more democratic political regime, the parliamentary faction the Unity for Justice put forth its proposals. They are rather important in terms of nationwide welfare and inter alia, include the following issues: protection of lawful interests of refugees and eco migrants; social integration of ethnic minorities; public employment support; guarantees for the protection of citizens’ labour rights; revival of national sectors of economy; protection of a national market and consumers’ rights, and control of migration processes. As we can see, the development of migration management mechanisms has been determined as one of the priorities for this faction.
- The regulation issues for the movement of immigrants or emigrants have not been outlined among the priorities set in the political platform of the Christian Democrats faction. However, in talking about this issue with me while conducting this study, the faction members stated that the Christian Democratic Party is working out an election program for the coming parliamentary elections this fall, and it will necessarily reflect the party’s attitude towards the elaboration of labour migration and immigration policy;
- As regards the basic directions document of the activities of the faction Powerful Georgia, it is still in the process of elaboration; no single trace of this document can be seen on the faction’s web site either.
- Neither can a political platform be seen on the web site of the United National Movement faction; therefore, the major directions of its activities will be covered while analyzing the party program.

The basic function of political parties is to unite citizens around particular ideas, concepts and programmes, which shall be put into practice once the party gains power. Within the Analysis of Political Parties’ Socio-Economic Programmes Project, implemented by the Center for Strategic Research and Development of Georgia under the financial support of Friedrich Ebert Foundation, some conclusions have been made. According to them, none of the political parties operating in Georgia has elaborated any socio-economic programme. As the Center outlined, many parties have recorded similar programmes merely as their verbal intentions. Some of the parties have such programs only in their slogans; they do not tend to go beyond that. Only a small number of political parties have developed a programme with respect to the country’s political issues or foreign policy⁵.

The Labour Party assumed an obligation in the foreign policy section⁶ of its presidential program according to which after the Party comes to power, Georgia will proceed actively with its integration into NATO and the EU. At the same time, the Party plans the following: to improve relationships with Russia and restore economic, transport- and other communications with her; facilitate visa regime with

⁵ The Center for Strategic Research and Development of Georgia, The Analysis of Socio-Economic Programs of Political Parties. Tbilisi, 2010. http://www.csr.dg.ge/index.php?module=multi&page=details&multi_id=1&id=275

⁶ <http://www.labour.ge/geo/party/programs.html> The Labour Party election program.

neighbor countries; eliminate illegal introduction of migrant labour force from foreign countries into Georgia. The Labour Party platform stresses that every Georgian, who will go abroad, as well as his/her family's property left in the country will be a major concern for the state.

As we can see, the Labour Party is one among the few exceptions underlining the need of elaboration and making stricter the immigration policy of Georgia. The Labourists were also against the Readmission Agreement; the Party called on the leaders of the member countries of the European Union not to spring into action the Agreement, which envisages the deportation of illegal migrants residing in the EU states⁷. At the same time, the Labour Party welcomes the introduction of facilitated visa regime with the EU.

The Way of Georgia Party's program puts priority on strengthening interactions with Georgian diasporas⁸.

For the 2008 parliamentary elections, the Republican Party presented the basic directions of its pre-election program in compliance with various spheres⁹. Having taken into account the problems and the poverty level the population of Georgia has been facing, the Party has elaborated 30 legislative initiatives dealing with fundamental changes within state organization, economy, education and culture, healthcare and social maintenance issues. Its legislative initiatives, inter alia, include the elaboration of a law on labour migration. The draft law considers the following issues: regulating the record of the citizens incoming from abroad and outgoing from Georgia; signing bilateral interstate agreements in employment sphere and issuing labour visas; bringing the employment issue of foreign labour migrants residing in Georgia under a legal framework and protecting the interests of labour migrants from Georgia residing abroad.

The programme directions of the National Council consider the definition of a new neighbourhood policy. Even though the Council confirms that current European Neighbourhood Policy¹⁰ fully conforms with Georgia's prospective intention for development and integration into the EU, however, it evaluates negatively the mechanism for its implementation. The accelerated accomplishment of the EU recommendations and the follow-up irreversible process of the EU integration are one of the cornerstones of the new neighbourhood policy¹¹ presented by the National Council.

The parties Free Democrats and New Rights set Georgia's worthy membership into the Euro-Atlantic organization and the strengthening of good relationships with its adjoining states as their foreign policy priority.

Along with other social measures to be taken, the Christian Democratic Party¹² emphasizes the need to support the development of agrarian sector and the employment of a large portion of population in agriculture. As the Party suggests, this will help encourage local inhabitants to stay in the regions, rural areas, and thus, facilitate the improvement of a demographic situation and the regulation of internal migration.

As concerns the programs of the ruling parties during the last two decades, unfortunately, we could not find such programs of the Round Table and the Citizens' Union of Georgia parties, even if they

⁷ <http://www.novisa.ge/novisa/?m=201103&lang=ka> The Labourists against the Readmission Agreement. 01.03.2011.

⁸ www.thewayofgeorgia.org The Way of Georgia Party's programme priorities.

⁹ http://republicans.ge/javascript/scrubite_editors/xinha/plugins/ExtendedFileManager/files/document/saarchevno_programa_2008_21maisi.pdf The Republican Party of Georgia "Pre-election Announcement and Basic Directions of the Programme".

¹⁰ The EU Neighborhood Policy is based upon the implementation of major activities, inter alia, including the creation of the opportunities for legal migration and a free movement of labour force.

¹¹ <http://erovnulisabcho.ge/?p=12878> The Conservative Party Program "New Neighborhood Policy".

¹² <http://cdm.ge/ge/mission.html> The main mission of the Christian Democratic movement.

had existed at all in the period of party dominance. At the same time, we can point out definitely that the management of migration processes had not been a priority in their activities.

The political platform of the ruling party the United National Movement¹³ is rather poor in terms of migration regulation, if taking into account the activities undertaken by central authorities in this respect from 2006, and the achievements gained today in terms of international relationships maintained with neighbour countries. The government's efforts put forth for regulating the movement of Georgian population over the country's borders have been backed by the action plan operating within the international cooperation with the European Union.

Georgia-EU European Neighbourhood Policy Action Plan has defined a number of activities, including, inter alia, the following issues: continuation of the work on the elaboration of a draft state strategy for migration and asylum by taking into consideration the new challenges our country is facing nowadays; the development of electronic data base of the returnees under the readmission agreements and potential migrants, also the improvement of an information base on Georgian diaspora organizations operating in foreign countries and Georgian citizens residing abroad; border management and illegal migration control; improvement of coordination among respective national agencies dealing with migration issues; information exchange and planned collaboration on transit migration issues; support to holding trainings on migration and asylum issues and qualification upgrade of the personnel of respective agencies, etc.

A work on both the strategy document and respective action plan on migration will be finalized this year—in 2012.

An undeniable accomplishment achieved by the authorities of the country is the enactment of the agreements on readmission and the simplified visa regime between Georgia and the EU. Starting a dialogue on facilitating circular migration and liberalization of movement to the EU countries has been a major step taken forward in Georgia-EU relationships. In addition, Georgia has been actively involved in assisting the return and reintegration of migrant compatriots. The implementation of social-economic and cultural reintegration programs under donor organizations' financial support is underway. In order to provide economic stimuli to and attract foreign investments in the country, the authorities of Georgia are also taking efforts to establish closer links to Georgian diasporas by arranging business conferences and economic forums.

Georgian Government's Basic Data and Directions Document for 2010-2013 identifies several priorities. Major importance within these priorities has been attached to the activities for the development of an overall state policy and implementation on migration¹⁴. They are directed towards enhancing legal labour migration capacities and regulating migration process record.

As can be concluded from the above, the program directions and "slogans" of the political parties with respect to international relations are quite similar. In terms of migration regulation, the opposition political parties accuse the ruling party of institutional weaknesses and an inconsistency. Migration issues have not become yet a topic of debates in the parliament. A weekly TV talk-show "The European Choice" (which dedicated several programs to migration issues) and a radio program "The Routes of Migration"¹⁵ (aired twice in a week) are broadcasted on a regular base, in which politicians, experts, scientists and representatives of NGO sector discuss various aspects related to migration.

¹³ The political platform of the United National Movement faction contains the following paragraph: "Integration of Georgia into NATO and the European structures, the facilitation of the integration process and the development of respective legislative base for this purpose." Public Information Unit of the Organizational Department of the Parliament of Georgia.

¹⁴ Georgian Government's Basic Data and Directions Document for 2010-2013. 2010. <http://www.parliament.ge/files/budget-off/bdd-20010-2013.pdf>

¹⁵ <http://www.radio1.ge/Show.aspx?Show=36> Radio broadcast programme "The Routes of Migration".

We presume that the wider public in Georgia should take its keen interest in the programs and concepts of particular political parties functioning in Georgia. As a result, the constituency should vote for one or another party during the elections given the party program and experience.

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CHAPTER 9

Asylum Seekers, Refugees and IDPs: Recognition, Social Protection and Integration

**Refugees, Displaced Persons
and Asylum Seekers in Armenia**

RUBEN YEGANYAN

Demographic and Economic Module

Armenia first came to know the painful phenomenon of the refugee and IDP population in the course of its recent history, in 1998. It was at the end of this year that people escaping from the Armenian pogroms in the Azeri city of Sumgait arrived in Armenia.

Given the deepening interethnic conflict between Armenia and Azerbaijan over Nagorno Karabakh, the refugee problem further intensified, resulting in an inflow that became massive in scope.

From 1988-1991, Armenia received a total of more than 360 thousand refugees from Azerbaijan, not only of Armenian nationality but also of minority nationalities who had been living in the territory of Azerbaijan. At the same time, because of the sharp increase in interethnic distrust and tension from 1989-1991, approximately 170 thousand ethnic Azeris who had been living in Armenia were forced to flee the country.

Besides this main stream of refugees, Armenia also received approximately 60 thousand ethnic Armenians, refugees, and IDPs during this period from other regions of interethnic conflict in the USSR (Abkhazia and Northern Ossetia, Kyrgyzstan, Uzbekistan, and Tajikistan.)¹

The refugees were and still are the only post-Soviet inter-state migration flows to cause a population growth in Armenia— an increase of 250 thousand people, or almost 7% of the total population.

Unfortunately, under the onslaught of extreme conditions in the first half of the 1990's (a destructive earthquake, revolutionary political, economic, and social transitions, the breakup of the USSR, a transportation and energy blockade, the transition to a market economy, a production paralysis, a fundamental structural transformation of the national economy etc.), the majority of refugees and IDPs, emigrated from Armenia during the 90's (mainly to the Russian Federation (RF)).² The main portion of those who remained in the country eventually obtained citizenship from the Republic of Armenia (RA). (According to data from the RA's State Migration Service, as of September 2013, the number of refugees from those years who obtained RA citizenship amounted to 83,642 people).

It should be noted that because of limited resources under the extreme conditions in the young Armenian state, the integration of refugees who remained in the country proceeded with great difficulty.

The most difficult integration was housing. A small number (mainly villagers) managed to solve this problem independently: through the exchange of homes with Azeri families leaving the country or the purchase of apartments/homes. But the majority were placed in public facilities: dorms, guest houses and holiday homes, hotels etc. or found temporary accommodation with relatives and acquaintances. Over time, the bulk of the housing problem was resolved one way or another (by transferring the ownership of occupied spaces, providing housing built at the expense of the Armenian government as well as several other European countries and international organizations, providing vouchers to acquire property etc.) However to this day, the problem is still not completely resolved. According to the data from the Migration Service of Armenia, more than 1,600 refugee families still continue to live in public facilities, and other families (unfortunately there is no exact data on this) live with relatives and acquaintances.

Because of the limitations of the Armenian labor market, in which supply sharply exceeded demand, and the specificity of the occupational structure of the wide array of refugees—particularly, the large number of specialists from sectors not originally in Armenia—their integration into the labor force was extremely difficult. In rural areas, thanks to the significant number of refugee families who ended up there through the purchases or exchanges of property and who also acquired land, this issue was somehow or other resolved over time (even former city dwellers retrained on farm work with

¹ Migration and Human Development: Opportunities and Challenges. Armenia, 2009. National Report 2009, UNDP, Yerevan, 2010, p. 37

² Ibid

varying success). In the cities, where the main sector for the working population was manufacturing—which essentially ceased to function—refugees were at best forced to be satisfied with low-paying work outside of their specialty areas.

Issues related to medical services were resolved relatively quickly and easily. Like all the country's citizens, all refugees have been enrolled with the appropriate health care facilities according to their place of residence. The issue of school education for children was resolved through this same principle. With regards to special education, which is mainly private, refugee families were also granted equal rights with citizens. However, because of limited economic opportunities, the majority of them—as with other poor groups of the population who make up a significant part of Armenian society—have not always had the opportunity to exercise these rights.

As far as obtaining citizenship is concerned, refugees have had practically no problems in this regard.

The Karabakh conflict also led to the emergence of the IDP phenomenon. During 1992-1994, various estimates of 70-110 thousand people³ were either officially relocated or independently relocated themselves to the central region of Armenia due to the frequent shelling of settlements and farmland near the border with Azerbaijan. After the truce was signed (in 1994), a large number returned to their settlements. As for the rest, some remained as permanent residents in the relocation settlements, and some, under the weight of insurmountable social-economic problems, fled the country, joining the massive emigration streams from those years.

The second major factor in the forced resettlement of the Armenian population (internally as well as externally) was the catastrophic Spitak earthquake in 1988, which overnight left almost a third of the country in ruins.

In 1989-1990, approximately 200 thousand residents from destroyed settlements in the disaster zone (the majority women and children), were either officially evacuated or independently relocated themselves beyond Armenian borders. The vast majority found refuge in republics in the European part of the USSR and the rest, in several European countries. Most of them (approximately 150 thousand people) returned before or after the breakup of the USSR. Others, settling permanently and initiating emigration for members for their families, essentially became one of the factors of the emergence of a massive emigration outflow of Armenia's population from 1992-1994.⁴

The number of IDPs from the earthquake zone was very large: 400-450 thousand people. As is the case with external IDPs, the majority returned to their settlements at the time of the breakup of the USSR and the subsequent almost total suspension of post-disaster recovery activities. Others, however, convinced of the groundlessness of government officials' assurances that they would quickly complete this work, stayed living in the immediate whereabouts or permanently emigrated from the country.⁵

Thus, we can say that there are currently no IDPs in Armenia.

During subsequent years in Armenia, refugee and IDP processes stopped being widespread.

This is more than eloquently proven in Table 1, with data from the State Migration Service of the Ministry of Territorial Administration of the RA.

³ See "Program for the Post-Conflict Rehabilitation of Bordering Territories in the RA." Department of Migration and Refugees, Government of the RA, Yerevan, 2000.

⁴ Migration and Human Development: Opportunities and Challenges. Armenia, 2009. National Report 2009, UNDP, Yerevan, 2010, p. 38

⁵ Ibid p. 43.

Table 1, Number of Foreign Nationals who Applied for Asylum in the Republic of Armenia in 1999-2004 ⁶

Year	Applied	Received	Did Not Receive
1999	23	5	18
2000	9	3	6
2001	10	2	8
2002	8	1	7
2003	82	63	19
2004	162	146	16
Total	294	220	74

According to this data for a six year period from 1999-2004, an average of 49 people applied for asylum annually. And this is only thanks to a more than tenfold increase in the number of applicants in 2003 and another almost twofold increase in 2004.

We should note that such a substantive and consistent increase in the numbers of applicants for asylum was entirely due to the deployment of International Coalition troops to Iraq, due to warfare and its direct consequences.

It was in 2003, i.e. the year of the start of the invasion into Iraq, that the first members of the Armenian community from Iraq, who had fled the country because of intensely aggravated interfaith and interethnic relations in the country, appeared in Armenia.

The fact that the dynamics of the above phenomenon directly relate to processes of growth and change in the political situation in the Middle East is clearly illustrated by the data in Table 2.

⁶ http://www.smsmta.am/?menu_id=61

Table 2. Number of Foreign Nationals who Applied for Asylum in the Republic of Armenia in 2005-2013. ⁷

Country of Citizenship	Total		By Year																	
			2005		2006		2007		2008		2009		2010		2011		2012		2013	
	Applied	Received	Applied	Received	Applied	Received	Applied	Received	Applied	Received	Applied	Received	Applied	Received	Applied	Received	Applied	Received	Applied	Received
Azerbaijan	24	15	1	1	3	1	1						18	12	1	1				
Turkey	19	5	2	2	3	1			3	2			7		1		3			
Israel	69	4			69	4														
Iran	98	25	9	1	7	1	14	3	11	7	11	6	12		16	4	14		4	3
Iraq	901	869	141	122	275	275	271	271	63	63	48	48	15	13	38	37	35	21	15	19
Lebanon	284	15			279	15			1						1		3			
Cote D'Ivoire	17	7									1	1	4		7	6	5			
Syria	761	504			7								4		6	6	496	155	248	343
Georgia	138	7	4						125	7	5		3				1			
Other Countries	56	2	6	1	7	0	5	0	4	0	2	1	5	0	3	0	22	0	2	0
Total	2367	1453	163	127	650	297	291	274	207	79	67	56	68	25	73	54	579	176	235	328

⁷ http://www.smsmta.am/?menu_id=61

Thus from 2005-2013, more than 2/3 of the total number of applicants for asylum in the Republic of Armenia were comprised almost entirely of members of the Armenian diaspora over different time periods from two Middle Eastern countries, Iraq and Syria, which are the hot spots of the region.

In 2005-2009, that is to say in the post-conflict years during an extremely aggravated internal situation in Iraq, Iraqis accounted for nearly 58% of the total number of applicants for asylum in Armenia. It is important to note that this proportion would be much higher were it not for the 279 refugees from the so-called second Lebanese war of 2006 and 127 refugees from the Georgian-Russian war of 2008, the majority of whom did not wait for an answer to their requests for asylum and returned to their own countries due to quick resolutions of the crisis situations. (Both groups were comprised mainly of members of the Armenian diaspora from Lebanon and Georgia),

And as one would expect for the period from 2010-2013, the overwhelming majority (more than 72%) of refugees are members of the Armenian diaspora from Syria, which will undoubtedly continue to be the most tense spot in the entire Middle Eastern region during the near future.

**Socio-Economic Rights of Refugees, Asylum Seekers
and IDPs in the Republic of Armenia**

PETROS AGHABABYAN

Legal Module

I. Refugees and Asylum Seekers

1. Right to work

Asylum seekers have the right to work and have access to the labour market in Armenia. This is guaranteed by the “Law on Refugees and Asylum”¹ (Article 21). According to the RA Law “On the foreigners”² (Article 22) an asylum seeker is entitled to carry out working activities in the Republic of Armenia as long as he/she has a work permit issued by the state authorized body. Thus, the asylum seeker must have a work permit as a foreigner in the RA in order to be able to work. As the Armenian government has still to designate a body responsible for issuing work permits, the asylum seekers can, in practice, get a job without work permission.

Asylum seekers, who are recognized as refugees by the Armenian Government, receive a residence permit without time limits. Granting refugee status automatically implies permission to work. Recognized refugees are not required to apply for a work permit like asylum seekers and other foreigners. Refugees can work in Armenia without work permits³.

Persons granted asylum in the Republic of Armenia are allowed to seek employment within the RA under the same conditions as RA citizens. At the same time, RA legislation provides for some restrictions as it does for asylum seekers: they cannot fill positions in state and local self-government bodies, since RA legislation prescribes that only citizens of Armenia can apply for such jobs.

It is remarkable that the previous RA Law “On Refugees”, adopted in 1999, did not envisage any provision on refugees’ and asylum seekers’ right to work in the RA. But the right to work is stipulated in the new law, adopted in 2008, and this right is an equal right of all RA citizens. And this is surely progress.

There is no official statistics on employment/working activities of asylum seekers and refugees. According to the data of the State Migration Service (hereinafter SMS) asylum seekers and refugees of African origin mainly work in the services: workers at gas/petrol stations, porters and waiters in hotels and restaurants. Refugees of Armenian nationality (from Iraq and Syria) mainly work as craftsmen and women: electricians, tailors, jewelers and even doctors.

2. Access to housing, food and clothing

Article 14 of the RA Law “On Refugees and Asylum” defines the right of housing asylum seekers in the RA. A “Special Accommodation Center” was established by the RA Government Decree N 1283,⁴ 27 December 2001, in order to provide asylum seekers and their families with temporary RA housing. The possibilities of the accommodation center have recently been expanded due to the assistance provided by the UNHCR Armenian branch office. Currently the “Special Accommodation Center” has a status⁵ of a state non-profit organization and operates under the SMS of the RA MTA. The “Special Accommodation Center” is funded by the RA state budget.

¹ Entered into force 24 January 2009, Official Journal of Armenia (OJA) No. 2(668), 14.01.2009.

² Adoption 25 December 2006, Entry into force 3 February 2007, Official sources: Official Journal of Armenia No. 6(530), 24.01.2007

³ Art. 23 of the Law on Foreigners.

⁴ Is not published

⁵ “Special Accommodation Centre” was established by the RA Government Decree # 407-N, 3 April 2003

There are 22 rooms in the Center and it is possible to accommodate a maximum of 55 asylum seekers, even though for example 264 people⁶ have applied for asylum starting from January up to 1 September 2013. Therefore, the vast majority of asylum seekers either rent a house/a flat or stay at their relatives' or friends' house.

Procedures for placing asylum seekers in temporary reception centers (hereafter Center) and for providing them with subsistence means are defined by Governmental Decision No. 1440-N from 19 November 2009⁷. Asylum seekers are placed in the Center by the SMS.

Asylum seekers reside in the Center until a final decision is made on their claim (including the completion of the process for appealing refusal of asylum). If the claim of the asylum seeker is rejected and he or she appeals the rejection decision through administrative procedure, the asylum seeker, as well as members of his/her family can continue residing in the Center until a decision is made on examination of the administrative complaint.

The administration of the Center has to provide asylum seekers placed in the Center with subsistence means, namely food (three times a day), linen, items for personal hygiene, and, if necessary, clothes and shoes. Asylum seekers are to be provided with subsistence in the Center until a final decision is made on their asylum claim (including the completion of the process of appealing against the decision on rejecting asylum application). Asylum seekers, living outside the Center, do not receive any means of subsistence from the state budget. In fact, provision of meals three times a day does not apply because the Center does not have a canteen with proper sanitary conditions. Therefore, the management unit of the Center organizes purchasing of food⁸ and its provision to its residents. Food is distributed for a 10-day period. Priority is given to bread, dairy products, etc., and all these products are provided for a 2-day period. According to the estimates, the state spends 1355 AMD daily (2.5 EURO) on each asylum seeker.

Each asylum seeker placed in the Center is provided with items of personal hygiene on a monthly basis⁹. One time assistance in providing clothes and shoes is rendered to asylum seekers and members of his/her family based on a written request from them, or on the basis of a proposal made by the administration of the Center to the Designated Body and with the consent of the Designated Body. Expenditure made for this purpose should not exceed 25,000 AMD /50 EURO/ for each asylum seeker.

Subsistence means to asylum seekers placed in the Center can also be provided within the framework of programs implemented by international organizations and NGOs.

RA Government Decree # 783-N¹⁰ of 18 July 2013 defines the order of the activities of the special accommodation centers in the RA state border crossing points and transit zones, as well as the living conditions of the foreigners in these accommodation centers. Those asylum seekers, who illegally entered RA territory are kept in special centers of the National Security Service adjunct to the RA Government. They are provided with food and necessary items, as well as outpatient and professional medical treatment. The asylum seekers are kept in such centers for up to 72 hours. After this they are moved to the "Special Accommodation Center" SNPO, functioning under the SMS.

⁶ <http://www.smsmta.am/>

⁷ OJA No. 68 (734), 30.12.2009.

⁸ The quantity of daily food and linen provided to asylum seekers placed in the Center is calculated in accordance with the minimal criteria fixed in Appendix 2 and Appendix 4, respectively attached to the Governmental Decision #730-N⁸ from 31 May 2007 "On approval of the minimal criteria for social services provided to elderly and disabled people."

⁹ Each asylum seeker placed in the Center is provided with items of personal hygiene on a monthly basis in the following quantities: 1) hand soap – 100 g, 2) laundry powder – 250 g, 3) laundry soap – 200 g, 4) tooth paste – 60 g, 5) tooth brush – 1 piece (one time), 6) Kleenex – 1 box) toilet paper – 1 roll,

¹⁰ Official source: OJA 2013.08.07/44(984)

If an asylum seeking application is accepted then the asylum seeker becomes a refugee. They have to vacate the room in the reception centre within 2 days of notification from the SMS on a positive decision on your application. After vacating the room in the reception centre they may apply to the SMS with a request for a room in a communal centre. State non-profit organization “Dormitories” functions under the SMS, and its activities are aimed at accommodating people, recognized as refugees, and asylum seekers in the RA in the dormitory rooms. This works through a referral system, referrals coming from the SMS, as well as deals with providing services to those living in the dormitories. According to the Decree of the RA Minister of the Territorial Administration (2008, N 47-A) a working group was set with the view of organizing the process of referral providing for further accommodation of the refugees in the dormitories (temporary dwellings) 2008 September. The RA Deputy Minister of Territorial Administration heads the working group. The Action plan of the working group was also approved (N36-A, 26 March, 2013). The above mentioned Action plan defines the organization of the activities of the working group coordinating the distribution of referrals for accommodating those forcibly deported from Azerbaijan in 1988-1992 (including those who received RA citizenship). The referrals also come for foreigners, who are recognized as refugees and who are granted asylum in the Republic of Armenia, stateless persons in the dormitories. The Action Plan also sets out the order of applying to the beneficiaries for distributing rooms, registration, distribution of referrals, rules and regulations of residing in the dormitories, as well as main rights and duties of people living in the dormitories. According to the statistics the working group has provided around 140 refugees with accommodation over four years.

A number of Decrees, adopted by the RA Government, refer to accommodation/housing rights of the refugees¹¹.

3. Right to education

The RA Laws “On Education”¹² and “Refugees and Asylum”, adopted in 2008, are the main legal acts regulating refugees’ rights to education. Particularly according to Article 25 of the latter, asylum seekers and recognized refugees have the right to a basic general education equal to that enjoyed by RA citizens. Refugees granted asylum in the Republic of Armenia shall be treated as favorably as other foreign citizens with regard to the access to studies, recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

It is worth noting here that the previous law “On Refugees”, adopted by the RA National Assembly in March 3, 1999, did not contain any provision related to refugees’ right to education.

¹¹ -The Law “On legal and socio-economic guarantees of the refugees from the Republic of Azerbaijan from 1988-1992 who acquired the citizenship of the Republic of Armenia”, Adopted on 06.12.2000, entered into force on 30.12.2000, RA State Bulletin 2000.12.30/33 (131),

-The RA Government Decision N 40411 from 14 May 2001 defines the privatization order of the residential dormitory premises under the state budget institutions by persons forcibly displaced from the Republic of Azerbaijan and having acquired the citizenship of the Republic of Armenia, 11. Adopted on 14.05.2001, entered into force 10.06.2001, The RA State Bulletin 2001.05.31/15/147.

-The law “On allocating the apartments built for the refugees displaced from the Republic of Azerbaijan in 1988-1992 to the refugees with ownership right” , Adopted on 20.11.2002, entered into force - on 18.12.2002, The RA State Bulletin 2002.12.17/55 (230)

- The RA Government Decision N747-N dated 20 May 2004 “On priority housing program for the people forcibly displaced from the Republic of Azerbaijan, 15 Adopted on 20.05.2004, entered into force on 26.06.2004, Official source the RA State Bulletin 2004.06.16/31(330)

¹² Adopted on 14.12.2004, entered into force on 02.03.2005. RA State Bulletin 2005.01.31/8(380)

4. Healthcare

Article 23 of the RA Law “On Refugees and Asylum” stipulates asylum seekers’ right to medical care in the RA. According to this article those refugees who have been granted asylum have the same right as RA nationals to free medical care and services guaranteed by the State. The second part of the same article states that asylum seekers and refugees who have not been granted asylum in the Republic of Armenia will have the same rights as RA nationals to receive free medical care and services guaranteed by the State, if they fulfill the requirements of RA legislation for that field.

Based on the above it might be argued that the asylum seekers are not provided with free medical care if the conditions of the RA Government Decree¹³ #318-N “On Free medical care and services guaranteed by the State” of March 4, 2004 are not fulfilled. According to this Decree free medical care and service will be provided to beneficiaries included in the poverty (family) system with 36.00 and higher vulnerability score, the disabled persons of the first, second and third groups and representatives of socially vulnerable groups.

In practice this issue is regulated if asylum seekers and their family members are registered in polyclinics- territorial/regional units of the RA Ministry of Health, where they receive some services, but not the full package. Therefore, with the support of the UNHCR office in Armenia two hospitals provide inpatient medical care to the asylum seekers and their family members. With a view to ensuring implementation of the right to receive free medical care and services guaranteed by the State and equal to that received by RA citizens, defined by the RA Law “On Refugees and Asylum” it is necessary to adopt the RA Government Decision “On making changes in the Decree #318-N “On Free medical care and services guaranteed by the State”. According to this Decree the asylum-seekers and their family members will be included in the list of vulnerable groups. The Draft of this Government Decision, made by SMS, is in the process of adoption.

According to the RA Law “On medical assistance and services rendered to the population”¹⁴ refugees have the right to receive free medical care and services (Article 4) in the framework of the state healthcare targeted programs. This law guarantees receiving free primary care and outpatient services. When it comes to in-depth health examination research and treatment, then all this is regulated on the same basis, as is done in case of RA citizens.

5. Family life

The RA Law “On Refugees and asylum” has a number of provisions on the family life of asylum seekers and recognized refugees. Particularly, the law ensures asylum to the family members of the refugee granted asylum. The spouse, any children under 18 years of age, and any other person under the lawful care of a refugee granted asylum in the Republic of Armenia will also be considered refugees and accorded with asylum in the Republic of Armenia; they must though reside together with the refugee in the territory of the Republic of Armenia and if they do not possess any citizenship - different from that of the refugee - providing effective protection (Article 7, point 1). The parents of the child who is recognized as a refugee and who received asylum in the Republic of Armenia, under 18 years old, as well as sisters and brothers above 18 who are disabled, are also considered refugees and granted asylum in the Republic of Armenia; again this is so if they reside together with the child who received refugee status and if they do not possess citizenship of another state – different from that of this child – providing effective protection (Article 7, point 3). Family members of the person, who has been recognized as a refugee or granted asylum in the Republic of Armenia, even if they are outside the territory of the Republic of Armenia, also have the right to be recognized as refugees and granted asylum in the Republic of Armenia

¹³ Adopted on 04.03.2004, entered into force on 08.04.2004, official source OJA 2004.04.07/20(319)

¹⁴ Adopted on 04.03.1996, entered into force on 16.05.1996, RA National Assembly Bulletin, 1996/7-8

According to the law the refugees granted asylum in the Republic of Armenia are entitled to family reunion with their family members (Article 7, point 4). The procedure for Family Reunification is stipulated in the Article 54 of this law.

6. Access to public service and right to naturalization

Refugees and asylum seekers do not have access to public services. It is possible through naturalization. There are three regimes of naturalization for refugees in Armenia. Those, who forcibly deported from Azerbaijan in 1988-1992, were recognized on the basis of “prima facie” principle, and were granted the RA citizenship in simplified order in accordance with the point 2 of article 10 of the RA Law “On the citizenship of the Republic of Armenia”¹⁵. The person applies to the passport division of the RA Police, located in his/her actual residence place, submits his/her Convention Travel Document and receipt on having paid the state duty of 1000 AMD (2,0 EURO) and receives the passport of the RA citizen within 5 working days¹⁶.

Recognized refugees of Armenian origin can also obtain RA citizenship through individual procedures as a second citizenship, as the RA Constitution allows. They have a right to apply for Armenian citizenship if: they have been residing on RA territory for the preceding three years; are proficient in the Armenian language; and are familiar with the RA Constitution. In order to receive Armenian citizenship the time limit of three years residence is not necessary if:

- he/she marries a citizen of the Republic of Armenia or has a child, a father or a mother, holding citizenship of the Republic of Armenia
- his/her parents or at least one of them held RA citizenship in the past or was born on the territory of the Republic of Armenia
- he/she is Armenian by origin.

7. Right to social security/social insurance

Article 23 of the RA Law “On refugees and asylum” states that refugees who have been granted asylum in the Republic of Armenia have the right to the following points if they fulfill the requirements in the relevant field: social services stipulated by the legislation of the Republic of Armenia for nationals of the Republic of Armenia; state benefits and other financial assistance; benefits granted for cases of temporary inability to work, employment injury in production, accidents and occupational diseases; pension security and social protection in case of unemployment as prescribed by the legislation of the Republic of Armenia.

Refugees’ right to receive social assistance, equal to that of received by the RA citizens, is stipulated by the RA Law “On Charities”¹⁷ (Articles 7, 10, 21) as well as by the RA Laws “On Social Assistance”¹⁸(Article 6) and “On State Benefits”¹⁹ (Articles 2, 5, 11).

The RA Law “On Children’s Rights”²⁰ (Article 30), adopted in 1996, ensures refugee children’s social, material and other rights.

¹⁵ Adopted on 06.11.1995, entered into force on 28.11.1995, The Bulletin of the RA National Assembly 1995/8

¹⁶ RA National Assembly adopted Law on making changes in the RA Law “On the citizenship of the RA”, according to which time limit for applying for acquiring the RA citizenship was prolonged until December, 2014. Adopted on 20.05.2013, entered into force on 29.06.2013, Official source: RA State Bulletin 2013.06.19/32(972)

¹⁷ Adopted on 08.10.2002, entered into force on 14.02.2003, Official source: State Bulletin 2002.11.14/49(224)

¹⁸ Adopted on 24.10.2005, entered into force on 01.01.2006, Official source: State Bulletin 2005.12.07/75(447)

¹⁹ Adopted on 24.10.2005, entered into force on 01.01.2006, RA Official Bulletin 2005.12.07/75(447)

²⁰ Adopted on 19.11.2002, entered into force on 01.01.2003, RA Official Bulletin 2003.04.09/18(253)

Refugees' pension rights are carried out on the basis of pension-related legislation of the RA. The current system of pension security services of forms the most important basis or criteria for being included in the RA pension security system. Many people deported from Azerbaijan did not have any opportunity to take documents with them, including documents on the length of service, which creates serious obstacles in pension insurance issues.

With the view of giving solutions to the issue related to recognition of the years of insurance payment of people forcibly deported from Azerbaijan in 1988-1992 23 July, 2009 the RA Government adopted Decree²¹# 907-N "On establishing a committee dealing with length of insurance of people forcibly deported from Azerbaijan in 1988-1992 and approval of the working procedure of the committee". According to this Decree a committee dealing with refugees' length of insurance was to set up.

II. IDP's

The minutes²² #39 of the RA Government session of 25 September 2008 the Program "On Organization of the return of internally displaced from the border settlements of the RA to the places of their origin" provide assistance to 1005 families in returning to the places of permanent residence. This program relates to those people who left the places of their permanent residence in 1992-1994 due to Azerbaijani bombings. After the ceasefire agreement was signed in 1994, most of these people returned to their places of residence, but there are still thousands of people, who have not returned²³.

The project includes 2 components – resettlement and restoration²⁴. The program of 38.52 million was to be implemented in 2008-2010 by international donor organizations²⁵. But due to lack of funds it was impossible to implement the project.

²¹ Adopted on 29.05.1996, entered into force on 16.05.1996, RA National Assembly Bulletin, 1996/10

²² Adopted on 23.07.2009, entered into force on 29.08.2009, Official source: OJA 2009.08.19/4(707)

²³ People mainly from Gegharqunik, Tavush, Syunik, Ararat, Vayots Dzor marzes (regions) were displaced, which amounts to 57% of whole territory of Armenia. At that time the population of these regions stood at 976,000 or 25% of the republic's population. In the bombardments 72,000 left the places of their permanent residence due to ruined houses and the risk of being shot. In accordance with non-official data, since the beginning of the conflict 26,000 44 people moved from the bordering territories to other states, 21.270 people to different regions of the republic, out of which 461 people left for different countries, 9692 have returned to the places of their residence within last 3 years, 113 people died. 1259 people out of 5784 residing in Armenia have expressed their willingness to return to their settlements in case of relevant conditions, and 740 people have not decided yet.

²⁴ Thus the restoration is aimed at returning 1005 families to the places of their residence by allocating 45 USD to each person for moving expenses, 600 USD will be provided to each family for setting up a farm (purchasing cattle, seeds and necessary tools) and a lump-sum allowance of about 105 USD. It is envisaged to implement this program in 3 years by resettling 330 families annually. Minimal living conditions within 7700 USD will be created for 1694 completely destroyed houses. Construction of houses of 32cubic measures, and 16 thousand for partial reconstruction (up to 1.500 USD) of the houses of 433 families is envisaged

²⁵ <http://www.panorama.am/am/society/2008/10/01/teghahanvac/>

**Asylum, Refugees and IDPs: the Challenges
of Social Cohesion in Armenia**

HAYKANUSH CHOBANYAN

Socio-Political Module

Introduction

Issues related to the situation of *asylum seekers*, *refugees* and *IDPs* in the Republic of Armenia (RA) are discussed in this paper. State policy implemented in this direction is analyzed, and recommendations with the view of filling the gaps are made. This paper is based on policy documents of the field, researches and publications of mass media.

Asylum seekers in the RA

Relations of foreign citizens and stateless people seeking asylum in the RA are regulated by the RA Law “On Refugees”, adopted in 1999, and the RA new Law on “Refugees and Asylum”, adopted in 2008.

According to the data¹ of the State Migration Service (SMS) of the RA, the number of foreign citizens who applied for asylum was 1,672 people in 1999 - 2009. The majority of asylum seekers arrived to Armenia from Iraq. Nearly one thousand citizens of Iraq were granted temporary protection in Armenia in 2003-2009. In 2009, the number of asylum applications decreased significantly: from 275 in 2006, it dropped to 48 in 2009. Apart from the citizens of Iraq, a significant number of applications were submitted by the citizens of Lebanon (in 2006, 279 citizens of Lebanon applied for asylum in Armenia) and Georgia (in 2008, 125 Georgians asked for asylum). During 2010-2012, another 720 persons applied for asylum, out of whom 255 were recognized as refugees and have been granted asylum, 63 persons were rejected, and the processing of cases of 70 persons was terminated.

The inflow from Syria to Armenia has become active in the beginning of 2012, when the situation in Syria became critical, and approximately 6,500 Syrian Armenians had moved to Armenia² by January 1, 2013. Currently their number exceeds 10,000³. However, some of them applied to the SMS for asylum. This can be explained by the fact that those arriving from Syria consider the SMS as an institution that is responsible for providing temporary housing only. Thus, those who have no relatives or friends in Armenia, with whom they can share lodging, or those who do not have financial means for purchasing or renting a house, apply to the SMS.

According to the information provided by the SMS, 784 people (304 families) applied for asylum in Armenia as of September 1, 2013. The State Migration Service of the RA provided 136 people with housing. Moreover 38 people were accommodated at the “Reception Center” SNPO, 19 persons were accommodated in a dormitory and 42 persons in Social House in Darbnik. They are functioning under the SMS, where their living is covered by the RA state budget. Besides, different individuals provided flats/housing to additional 37 persons⁴.

In general, the RA Ministry of Diaspora coordinates the activities carried out with the Syrian Armenians. A working group dealing with issues of the Syrian Armenians has been functioning in the Ministry since the summer of 2012. The working group has drafted the Action Plan⁵ on support to the

¹ The number of foreign citizens applied for asylum in the Republic of Armenia: Available at http://www.smsmta.am/?menu_id=61, accessed on 11 September, 2013.

² Report of the Ministry of Diaspora on Assistance of Armenians from Siria by 29 January 2013.

³ Speech of the Diaspora Minister H. Hakobyan presented at Diaspora Ministerial Conference on International Dialogue on Migration 2013 in Geneva 18-19 June 2013.

⁴ Report of the SMS at the session of the Interdepartmental Committee in charge of supporting solutions of key issues of Syrian Armenians. Available at: http://www.smsmta.am/?show_news&news_id=222, accessed on 26 September, 2013.

⁵ 2013 Action Plan of the working group of the Interdepartmental Committee on coordination of Syrian Armenians' issues.

solution of the issues of the Syrian Armenians. Regular sessions of the Interdepartmental Committee⁶ on Coordination of Syrian Armenians' Issues are organized. Representatives of various RA state bodies, NGOs dealing with the issues of the Syrian Armenians, and representatives of the Apostolic Church take part in the sessions.

Despite the actives⁷ already carried out, according to the report of the Committee, there are still unsettled issues or partially solved issues, such as the provision of health care, employment, child care and food supplies, clothing, and Eastern Armenian language lessons⁸.

According to the publications on Syrian Armenians in the mass media, positive attitude has been formed in the Armenian society, including in the level of local communities, towards the issues and needs of the Syrian Armenians. Still, opinions can be heard that issues of the refugees, who were forcibly deported from Azerbaijan to Armenia about 25 years ago, are left out.

Refugees, forcibly deported from Azerbaijan in 1988-1992

During 1988-1991, Armenia hosted approximately 420,000 refugees. The vast majority of these persons (360,000, or 12%) were from Azerbaijan, and the rest arrived from other parts of the former USSR, including Tajikistan, Uzbekistan, Kirgizia, Abkhazia, etc⁹. Due to problems with integration, 1/3 refugees later left Armenia, mostly for Russia and some for other countries (UNDP, 2009, pp. 35, 36).

Since the late 1990s, when it became clear that a safe and voluntary return of Armenian refugees displaced from Azerbaijan is unlikely, Armenia has adopted "*a full-scale refugee integration policy*",¹⁰. That was a transition to comprehensive and radical approach towards the solution of refugee issues that replaced the day-to-day approach that dominated in the 1990s. The policy based on such foundations becomes a primary goal for the effective integration of refugees in Armenia and their naturalization.

The implementation of this policy greatly depends on solving a number of vital issues that can be grouped as follows:

- a. **socio-economic** – improvement of living conditions of refugees, broader access to social infrastructures, higher unemployment rate and increased welfare, etc;
- b. **legal-political** – adoption of laws to ensure legal protection of refugees' rights and interests as well as political and legal guarantees for implementation of these laws;
- c. **spiritual-cultural** – ensuring adequate conditions for the Armenian language learning, good educational opportunities, broad-based access to the spiritual and cultural wealth of the nation, adoption of traditions and customs of the Armenian society;
- d. **moral-psychological** – treatment of moral and emotional stress caused by forced displacement; overcoming a feeling of being a stranger in a new environment; establishment of new social links; recovery of self-esteem; perception of behavioral nuances of people around; improvement of self-protection mechanisms;

⁶ RA Prime Minister Decree on Establishment of Interdepartmental Committee on Coordination of Syrian Armenians on 14 January, 2013, N 9-U.

⁷ Shoghikyan H. *New benefits for Syrian Armenians. The Government considers it expedient to remove all fines and penalties*. Available at: <http://www.azatutyun.am/content/article/24749273.html>. Published on 24 October, 2012.

⁸ Report of the Ministry of Diaspora on Assistance of Armenians from Siria by 29 January 2013.

⁹ The "Concept for the Policy of State Regulation of Migration in the Republic of Armenia" was adopted as Appendix to the RA Government Session Record Decision # 51 dated December 30, 2010, p. 5

¹⁰ Speech of G. Yeganyan, Head of State Migration Service of Armenia, at the Living together summit, 12-14 March, 2008, London, UK. Available at http://www.smsmta.am/?show_performance&performance_id=14. Accessed on 21 September, 2013

- e. *e. relating to personal mentality* – most refugees fear that upon the acquisition of the Armenian citizenship, they will lose protection and assistance of the state and international organizations. Besides, there is another problem: 60% of refugees have abandoned their property, homes and savings in Azerbaijan. Until the present day, they haven't received any indemnity for it.

It is noteworthy that these factors had a diverse impact during the entire course of refugees' integration. Actually, since 2003, the basic problems in the process of integration of refugees are their difficult socio-economic conditions, which intensify their social isolation and the feeling of being forgotten by the state and international organizations.

Various surveys conducted in Armenia in the past few years demonstrate that refugees are much more vulnerable than the local population, particularly in the following aspects:

- according to the preliminary estimates, over 5.5 thousand refugee families are not provided with permanent housing, and the housing problem requires urgent attention;
- the actual unemployment rate is 2-3 times higher;
- higher level of impoverishment (unfavorable housing conditions, limited access to health services and primary education);
- lower living standards and lower incomes.

Despite the abovementioned, researches¹¹ show, that since 2004-2005, the refugees deported from Azerbaijan in 1988-1992 are no longer viewed as the primary beneficiaries of the programs on social assistance to the population of the Republic of Armenia in all the areas, but the mainly of the programs on shelter provision (including the programs implemented with the assistance of international institutions), or as a group with a vulnerable social status in need of specific policy approach.

Such is the state of affairs in the area of healthcare, where refugees are not viewed as a special target group for any state program on healthcare, and, as a consequence, there is no specific statistical information with regard to the inclusion of that group into similar programs.

As it also became clear with regards to the inclusion of refugees into the state employment programs, despite the fact that refugees continue to be viewed as members of a non-competitive group on the national labour market, and a provision to grant priority rights is included into the state employment programs, since 2006 no statistics is kept in the database regarding the participants to such programs of the various social groups of population that are considered to be non-competitive on the labour market.

It can be concluded that at least in the past 7-8 years, the individuals deported from Azerbaijan in 1988-1992 are also no longer considered to be the primary beneficiaries of social assistance programs, implemented on the basis of family poverty evaluation. The representatives of that group are also included in such programs on common grounds, which is, if they fall under the criteria determined for the inclusion of the RA citizens into such programs.

The analysis has shown that in the current system of education, there are no special target programs aimed at solving the education-related problems of refugees, or programs, where this group is viewed as the primary beneficiary group. In the opinion of the responsible officials in the area of education, there are no specific issues in the system of education as regards to the refugees.

¹¹ Gevorgyan V. (2012) Social integration of refugees deported from Azerbaijan in 1988-1992 in the Republic of Armenia. Available at: <http://www.smsmta.am/upload/Integration.pdf>. Accessed on 10 September, 2013

Internally Displaced Persons (IDPs)

During 1991-1993, as a result of the conflict in Kharabakh on the territory bordering with Azerbaijan, which involved 186 settlements of 5 Armenian regions, approximately 72 thousand persons who became internally displaced persons due to the military clashes (UNDP, 2009, p. 40). After the ceasefire in 1994, the majority of these persons returned to the places of their permanent residence. A comparatively small number settled in new places, the rest permanently emigrated from the country.

Complexities of the problems of refugees from Azerbaijan and people displaced as a result of the 1988 earthquake have overshadowed the issues of IDPs who emerged due to military operations in the border settlements.

According to the Global Overview on IDP's published annually by the Internal Displacement Monitoring Centre, 8,400 persons are still IDPs in Armenia (0.3% of the total population).

In 2002-2004, the Migration Agency under the Ministry of Territorial Administration of Armenia in the framework of a joint effort and direct involvement of the Norwegian Refugee Council undertook the registration of the IDPs in 5 regions, that included 186 settlements and 65,647 households (237,730 persons residing in those settlements) at the border with Azerbaijan. The IDP allocation mapping had been carried out, as well as a study regarding the willingness of the IDPs to return to their original places of inhabitation (GovProject, 2008, p. 4).

In fact, the first fundamental document on the issue was the Project "On Assistance to the Return of Internally Displaced Persons Residing in Border Settlements of Armenia to their Places of Origin", which was approved by the RA Government in 2008 and has been built on the results of the abovementioned mapping survey.

According to the Project, the Resettlement component targets nearly 2,608 persons (almost 1,005 households) supporting the return of these persons to their permanent places of residence and their resettlement in their own reconstructed or renovated houses. The Project aims at assisting the return of 626 internally displaced households which expressed willingness to move back to their permanent places of residence; assisting 379 families that still contemplate the option of return; facilitating the return of those who are on their way to return; and supporting the integration of population in the border areas. The activities to be implemented in the scope of the Project conditionally contain Resettlement and Recovery components. The total cost of the Project is USD 38, 53 million. It was supposed to be carried out in 2008-2010 at the regional and community levels in the light of the joint efforts of international donors and other NGOs with due regard to the specificity of different approaches.

However, due to the lack of financial means, the project has not been implemented yet. In September 2010, the Representative of the United Nations Secretary-General on the Human Rights of IDPs, Mr. Walter Kälin arrived in Armenia. The abovementioned Project was discussed during the meeting, and it was decided that it should be reviewed taking into account the needs of the IDPs. This is due to the fact that the data of the Project, approved in 2008, was old. With the view of reviewing the Programme, the SMS approached the Armenian office of the UNCHR for assistance in the implementation of the activities through the UN offices located in Armenia. So far concrete steps have not been undertaken.

Nevertheless, according to the RA Government Decree N1856-A "On Allocation of the sums" of December 22, 2011, it was decided to allocate a lump-sum of 708 million AMD¹² to organize financial assistance to the families of forcibly displaced persons from Artsvashen¹³ community on August 18, 1992 due to military actions¹⁴.

¹² Armenian currency

¹³ Artsvashen is an Armenian exclave inside Azerbaijan territory.

¹⁴ "Report on the most important achievements recorded in the field of migration management in 2007-2011" prepared by the SMS. Available at: http://www.smsmta.am/?menu_id=101. Accessed on 20.09.2013

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**Asylum Seekers, Refugees, and IDPs in Azerbaijan:
Issues and Perspectives**

ARIF YUNUSOV

Demographic and Economic Module

Introduction

As early as twenty years ago, no one in Azerbaijan knew about refugees or people in similar situations who were forced to flee their homes due to various circumstances such as conflict and deportation. However, over the past 20 years these forced migration processes have reached such a magnitude in Azerbaijan that it has become part of the current Azeri reality, a kind of trademark which literally affects all spheres of life for this young state. However, these processes, as well as the plight and status of forced migrants have had their own characteristics and particularities at various times.

Forced Immigration to Azerbaijan from Post-Soviet Countries as a Result of Ethnic Conflicts

Azerbaijan became the first republic in the USSR to face problems with refugees, who at that time were still Soviet citizens who had become victims of ethnic conflict: in November 1987, several hundred Azeris fled to Baku, the capital of Azerbaijan, to escape the conflict erupting in the Kafan area of Armenia.¹ However, the main stream of refugees started after the official start of the conflict in February 1988. As a result, by early 1989 there were 190,356 officially registered refugees from Armenia.²

One year later, the Meskhetian Turks, who had become victims of pogroms in Uzbekistan in 1989, started to arrive in Azerbaijan. Thus migration processes were dynamic in nature: some were arriving and some were fleeing the republic. As a result, in September, 1990 the State Statistical Committee (Goskomstat) of Azerbaijan registered around 234 thousand refugees: 205 from Armenia (201 thousand Azeris as well as 2.5 thousand Kurds and around 1.5 thousand Russians) and 29 thousand Meskhetian Turks from Uzbekistan.³

The breakup of the USSR in 1991 and the declaration of the independence of Azerbaijan and Armenia brought the Karabakh conflict to the stage of inter-state confrontation. As a result of the fighting in the country, internal migrants appeared in the country, whose numbers varied in the range of 212-220 thousand people in 1992.⁴

The situation in Azerbaijan, with refugees and migrant populations fleeing conflict areas, changed dramatically in 1993, when almost 20 percent of Azeri territory in the Karabakh fell under control of Armenian armed forces. This immediately prompted a sharp increase in the number of IDPs. If in April 1993, the authorities officially stated that 243 thousand IDPs were registered, then by the beginning of December of that same year this number climbed to 778.5 thousand people; that is to say, in seven months their number grew by more than 535 thousand people. At this time, the leadership of Azerbaijan officially stated that there were more than one million refugees and IDPs in the country.

In May 1994, the conflicting sides signed a truce to halt the fighting on the front lines which holds to this day. This allowed Azeri authorities to stabilize the situation in the republic and to gradually take control of the refugee situation and especially for IDPs—to build camps and settlements, and to provide humanitarian aid. New figures from the State Statistical Committee (Goskomstat) emerged with data from January 01, 1998: in the Republic of Azerbaijan there were 233,683 refugees, of whom 29,015 were Meskhetian Turks from Uzbekistan and other countries in Central Asia. The remaining

¹ Thomas de Waal. *Black garden: Armenia and Azerbaijan through peace and war*. – New York and London, 2003, pp. 18-19; Arif Yunusov. *Karabakh: Past and Present*. – Baku, 2005, pp. 65-68.

² Arif Yunusov. *Migration Processes in Azerbaijan*—Baku, 2009, p.23.

³ Ibid, p. 24

⁴ Ibid, p. 24-25

204,667 refugees were from Armenia: 201,069 Azeris, 2359 Kurds, and 1,239 Russians. At that time, 604,574 IDPs were registered.⁵

Thus, according to official data, on January 01, 1998, there were about 840 thousand refugees and IDPs in Azerbaijan, which comprised about 11% of the Republic's population. However, this data was called into question by many international organizations. In particular, UNHCR agreed in general with Azeri government data, but at the same time noted that there were actually 551 thousand migrants within the country. And in total, according to UNHCR data as well as the IOM, there were approximately 750-780 thousand refugees and IDPs in Azerbaijan in 1997.⁶

At the same time, in the late 1980s and early 1990s, there were streams of forced migrants to Azerbaijan from other Post-Soviet republics. According to data from January 01, 1997, there were 2,525 refugees registered from of number of CIS countries, mainly from Kazakhstan (1,556 people) and from Russia (960 people).⁷

But most Azeris were forced to flee their homes in Georgia in the 1990s. There is not exact data, but we are talking about several tens of thousands of Azeris , all

former citizens of Georgia.⁸ However, they did not end up on the lists of refugees, since they periodically returned home to Georgia as the situation stabilized.

The State and Status of Forced Migrants from Post-Soviet Republics

Thus, by the mid-1990s there was a sizable population of refugees from republics of the former USSR, as well as IDPs from Western areas of the Republic occupied by Armenians.

And immediately, the issue of solving numerous social-economic and other forced migrant issues arose. After all, in the beginning they settled chaotically and mainly in the capital and other cities, which led to numerous conflicts. In Azeri society to this day, this is a problematic issue that impacts many political processes in the country.

Thus in the beginning, the attitude in Azeri society toward refugees, especially those from Armenia, was sympathetic and tolerant. They were seen as unfortunate and innocent victims of conflict. However, very soon relations between local residents and forced migrants changed dramatically. Refugees and IDPs were in desperate need of housing and work, and the authorities distanced themselves from solving these sensitive issues. Left to fend for themselves, refugees and IDPs began to solve these problems themselves.

In the early 1990s, an especially sensitive situation took place in Baku, the capital of the republic, where unauthorized and violent takeovers of apartments became widespread. It goes without saying that these violent acts by forced migrants could not but alienate residents of the capital.

After the fighting on the Karabakh front came to an end in May, 1994, it seemed that the situation should have improved. In the first half of the 90's, many citizens, especially residents of the capital, fled their apartments and houses for many reasons and left the country, preferring to wait out the difficult time in Russia or in other republics of the CIS. Only now, after the established truce on the

⁵ Ibid, p. 26

⁶ *Migration in the CIS: 1997-1998*, p. 24-25. According to UNHCR data, at the end of 1997 in Azerbaijan, there were 198,000 refugees from Armenia and 35,700 from Uzbekistan: *Refugees and Others of Concern to UNHCR. 1997 Statistical Overview*. – Geneva, July 1998, p.27.

⁷ Refugees and IDPs- Journal "Ganun" (Baku), № 2, August 1997, p. 6 (in Azerbaijani); *Migration in the CIS: 1997-1998*. Report from the International Organization on Migration- Geneva, 1999, p. 30.

⁸ G. Svanidze, *Emigration from Georgia and its Reasons* – Tbilisi, 1994 p. 5; Khaladdin Ibragimli. *The Azeris of Georgia* – Moscow, 2006, p. 58; Z.N. Eminov. *The Population of Azerbaijan*. – Baku, 2005, p. 47 (in Azerbaijani).

front, many citizens, especially residents of Baku, started to return. However, the realities in Azerbaijan gave them yet another shock: while they were gone, refugees and IDPs had managed to occupy the majority of their empty apartments. Attempts to solve the issue through legal means turned against the rightful owners of the apartments: on May 09, 1994, the parliament of Azerbaijan passed the resolution 014/7-398, which prohibited the eviction of refugees and IDPs from their place of residence without the provision of alternate housing. In other words, this official document legitimized the violent takeovers by refugees and IDPs of apartments owned by citizens of the Republic. Moreover, on July 01, 2004, Ilham Aliyev, the President of Azerbaijan, signed Decree number 298, which confirmed the resolution of the parliament, allowing refugees and IDPs to squat in empty apartments and houses. Article 2 of the decree states that refugees and IDPs cannot be evicted from houses in which they have been squatting from 1992-1998 “regardless of property rights”⁹. As a result, the rightful owners of the apartments, despite having all the necessary documents in their hands, could not return to their rightful homes, even through the courts.

The issue of the illegal takeovers of apartments by refugees became so widespread that it became one of the most popular themes in the national media. In addition, an NGO was even created soon after: the Committee of Homeless Bakuites. The problem was so serious and explosive that at the end of 2007, the authorities made a statement that the Supreme Court of Azerbaijan was searching for a legal solution to property rights of citizens whose apartments were occupied by refugees and IDPs. Of course this pertains only to Baku, where even now owners demand the return of almost 6 thousand apartments. At the same time, to violently and illegally evict the apartment squatters is legally prohibited, until there is a solution to the Karabakh conflict.¹⁰ The solution, in other words, takes us back to square one.

The housing problem artificially created by authorities further worsened native residents’ attitude towards refugees and IDPs, especially in Baku. Very soon after, other issues also came up, first and foremost—employment. It is true that here is a marked difference in the situation of forced migrants.: after Geidar Aliyev came to power in 1993, the social-economic situation of refugees from Armenia noticeably changed for the better. Geidar Aliyev and many of his circle had come from Armenia and from the Nakhchivan Autonomous Republic adjacent to Armenia. Therefore many refugees could find good jobs. They even had NGOs and political organizations, and influence on the political situation in the country. But this later backfired, because they began to personify power and its politics, and this began to gradually irritate the community. Nonetheless, on the whole, the social-economic situation of refugees from Armenia was relatively better and they generally integrated into the Azeri host community.

IDPs, who comprised the main core of the population of Azeri forced migrants, did not have all of this. Their attempts to find work in the capital, where there were many Western companies (oil and others) —and meaning there was a chance to find work—failed. In Baku in the 90’s, five so called “slave markets” (in Azerbaijani, “gul bazari”) even sprang up—four for men and one for women, a kind of illegal labor exchange, where dozens of unemployed people, the majority IDPs, were prepared to do any work for hire. And then in the 90’s, many of the IDPs went to work in Russia and other CIS countries. They comprised the main portion of migrant workers from Azerbaijan to the Post-Soviet areas.

From the end of 1999, the IDP situation worsened further as the majority of international humanitarian organizations stopped providing food aid to Azerbaijan and left the country. Therefore in 2001-2002, desperate IDPs periodically blocked the roads and demanded that the authorities improve their situation. These acts of protest by IDPs immediately came onto the radar of the opposition, as it could have implications for the authorities. Since the number of IDPs was enormous, they could become support for the opposition. Only after this, the authorities decided to take the issue seriously

⁹ *Nagorno-Karabakh: Viewing the Conflict from the Ground*. International Crisis Group Europe Report N 166 – 14 September 2005. – Tbilisi/Brussels, 2005, p.21.

¹⁰ Arif Yunusov. *Migration Processes*, p. 72-73.

and all the more so, because the republic began to receive profits from the sale of oil and gas. In 2003, this made it possible to begin the process of relocating the IDPs from 28 tent camps near the front to newly built settlements in various areas of the country, where each relocated family was given a three-room house. At the beginning of 2010, this process was fully completed and at present all tent camps have been liquidated. About 90 thousand IDPs relocated to 76 settlements in various areas, mainly along the front line.¹¹

After this, authorities set about improving the situation of IDPs in other areas of the country as well, beginning with the building of new settlements. The first step was made with regards to IDPs residing in the capital, where in 2010, numbers had reached 216 thousand people. The process will proceed in stages and started with the relocation of 7 thousand IDPs to a specially constructed settlement not far from the capital.¹²

All this, of course improved the situation of a portion of Azeri IDPs. However, with uncertain and inconclusive conditions surrounding the resolution of the conflict with Armenia over the Karabakh, the lives of IDPs still remain extremely complex. Although a certain portion of IDPs were able to rebuild their lives anew in the new place, the overwhelming majority of them are still directly dependent on assistance from government of Azerbaijan. IDPs have to make great efforts to gain access to normal housing and to livelihoods and services necessary to live, such as health care and education. The IDPs who do not live in the new settlements built by the authorities, have to live in crowded quarters without heat or ventilation, which increases the risk of disease. Medical care for many of the IDPs is very expensive and therefore inaccessible or simply inadequate. Meanwhile, many IDPs need additional assistance from psychiatrists or social workers. While searching for work, many IDPs left their families and moved from places where they were settled to major cities, where they had to face the problem of registering in a new place, and as a result, did not have the opportunity to officially find work and receive assistance from the government, as well as benefits and services.

Obtaining education is a serious problem for IDPs. Some IDP students have had to quit school because of poverty, the need to move away with their family, or early marriage. About half of IDPs continue to live in difficult conditions in converted housing or in collective housing centers (sanatoriums, holiday homes, and others.) Elderly IDPs have serious health problems, compounded by the difficulties of adapting to a new environment with low incomes in the families.

In contrast to refugees and IDPs who became victims of the Karabakh conflict, the Azeris who escaped from other Post-Soviet countries were in a different situation, ending up sidelined by government institutions. Furthermore, the authorities often did not register them as refugees, since Azerbaijan was not in a state of conflict with any one of these countries. So residents of Russia, Kazakhstan, and Georgia often arrived in Azerbaijan as foreign nationals. They appeared in the media, talked about their problems and about emerging conflicts with the local population during the post-Soviet period. But they were not treated as refugees or as victims of conflict. As such, they were deprived of the social and economic benefits granted to refugees. These forced immigrants, as a result, had to solve their own problems with housing, find employment, and adapt to their historic home, which they had left during the Soviet period. Not all were able to solve their problems, and as a result, a certain portion left for countries in Europe or elsewhere.

¹¹ IDMC. *Azerbaijan: After some 20 years, IDPs still face barriers to self-reliance*. A profile of the internal displacement situation. 10 December, 2010. – [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/FB99F03DAB636905C12577F5004F432D/\\$file/Azerbaijan_Overview_Dec2010.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/FB99F03DAB636905C12577F5004F432D/$file/Azerbaijan_Overview_Dec2010.pdf); *Information about Ethnic Cleansing in Armenia and about the Emergence of more than One Million Refugees and IDPs, as a Result of the Occupation by Armenian Armed Forces of 20 Percent of Azerbaijan's Territory (1998 – 2011)*. – Baku, 2011, p. 53 (in Azerbaijani).

¹² *216 thousand IDPs Reside in the Capital of Azerbaijan*. Dec. 19, 2010 – <http://azerbaijanfoundation.az/ru/migdestiny/1228-v-stolice-azerbajdzhana-prozhivajut.html>

At the same time, forced migrants who were victims of conflicts in post-Soviet areas had additional problems related to their status.

On July 06, 1993, Azerbaijan ratified the 1951 UN Convention on the Status of Refugees and its Protocol from 1967, the Geneva Convention from 1949, and other legal documents to improve the lives of refugees and IDPs. The status of refugee and IDP gives the holder many privileges such as receiving humanitarian aid as well as others in the social-economic sphere. But there was a difference: in contrast to IDPs, refugee status does not allow the holder to officially take part in elections in Azerbaijan.

In 1998, on the eve of the presidential elections, the issue was raised and subsequently, in October 1998 the government of Azerbaijan passed the draft legislation "On Citizenship." According to this document, all refugees who were expelled from Armenia as a result of the Karabakh conflict and came to Azerbaijan prior to January 01, 1992 automatically became citizens of the country. This law pertained to Meskhetian Turks as well.

As a result, the large population of refugees (who, by the time the law was passed numbered 221,616 people, including 188,400 from Armenia and 33,216 Meskhetian Turks¹³) in 1998 received the right to participate in elections and other political activities. At the same time, counter to all international norms and documents relating to the status of refugees, the Azeri authorities passed a special law "On the Status of Refugees and IDPs" in April 1999, under which refugees from Armenia retained the status of...refugees! This legal case was made so that international humanitarian organizations would still provide assistance to these refugees. However, international organizations started to leave the country and in several years stopped providing aid to victims of the conflict.

In the beginning, the Azeri authorities did not pay attention to the case of status for refugees from Armenia. They became alarmed only in April of 2006 when during the Spring session of the Parliamentary Assembly of the Council of Europe there was a discussion about the issue of refugees in the South Caucasus. And it turned out that the UN, the Council of Europe, and other international organizations did not officially consider Azeris expelled from Armenia as a result of the Karabakh conflict or Meskhetian Turks to be refugees. This was a shock for the authorities of Azerbaijan and for the entire society. An attempt was made to return again to refugee status, during which the authorities of the Republic began appealing to relevant international organizations. But they did not manage to correct their mistake. As a result, today in Azerbaijan those Azeris who were expelled from Armenia, as well as Meskhetian Turks, are still legally considered citizens and refugees at the same time. However, outside of the Republic they are not considered refugees.

Foreign Refugees and Asylum Seekers

In the mid-1990's in the Republic, together with the refugees mentioned above (Azeris and Meskhetian Turks), there was a flow of forced migrants who were foreign nationals as well as victims of conflicts and repression. The largest flow of these refugees occurred in Russian territory and was related to the war in Chechnya. As a result of the first war (1994-1996), UNHCR's Baku office registered about 4,700 Chechen refugees in Azerbaijan.¹⁴

Begun in 1999, the second Chechen war further strengthened the stream of Chechen refugees to Azerbaijan. In early 2001, there were already more than 10 thousand of them in the Republic. However, after the tragedy of September 11, 2001 in the USA, Chechen refugees' situation in Azerbaijan began to rapidly deteriorate. The authorities of the country, seeing a convergence of US

¹³ UNHCR Global Report 1999 – Azerbaijan. - <http://www.unhcr.org/3e2d4d513.pdf>

¹⁴ A. Yunusov, *Chechen Refugees in Azerbaijan* – Compilation "Refugees and IDPs: Ethnic Stereotypes (the Experience of Sociological Analysis)" – Vladikavkaz, 2002, p.12-13.

and Russian positions on the war against terrorism, decided to demonstrate their “initiative” and launched a campaign of persecution against Chechen refugees in Azerbaijan. For Chechen refugees, the situation was very difficult, but they were afraid to return to Russia and tried to leave Azerbaijan for Turkey. More often they left for Western countries, mainly Canada, Sweden, Chile, and Norway. However, receiving refugee status from the UNHCR’s Baku office is very complicated. Chechen refugees’ situation was so difficult that in December 2001, they staged a series of protests, picketing in front of the Baku building of the UNHCR.

The situation remained so tense, that in March 2002, the UNHCR’s Baku office even closed for a while(!)¹⁵ Only after a change of its leadership in April 2002 did the work of this office in Baku resume. In early June 2002, it stated that there were 6,580 Chechen refugees in Azerbaijan. However, the Chechens themselves claimed there were actually no more than 4,700 people in the country at that time.¹⁶

The number of Chechen refugees registered at the UNHCR’s Baku office peaked in July 2003 at 7,603 people. In total, for the period from 1999 to 2005, there were 9,318 people registered, although according to Chechen diaspora data, connected to the war in Chechnya, more than 12 thousand Chechen refugees took refuge in Azerbaijan.¹⁷

Afterwards, the situation surrounding Chechen refugees in Azerbaijan clearly deteriorated. As a result, the number of those leaving Azerbaijan for Turkey and other countries exceeded the number arriving in the Republic from Russia. By the end of 2007, information was released that in Azerbaijan there were about 2.5 thousand Chechen refugees, of whom more than 2 thousand were registered in the Baku office of the UNHCR.¹⁸

But even this number has had a tendency to decrease. After all, the social-economic and legal situation of Chechen refugees in Azerbaijan is deeply dependent on political circumstances, first and foremost on Azerbaijan’s bilateral relations with Russia. When the Azeri-Russian relationship was bad, the Azeri authorities allowed an office in Baku to open for separatist forces that were receiving humanitarian aid from Arab countries. According to data from early 2001, the Mission of Chechnya spent more than 220 thousand dollars monthly on its own refugees. These monies went to pay for apartment rents, as well as assistance with groceries (one Chechen refugee was provided monthly with 3 kilograms of sugar, 5 kilograms of flour, and 2 kilograms of buckwheat).¹⁹

However in 2001, the Azeri authorities, under pressure from Russia, suspended the activities of representatives of the independent Chechen forces. The activities of all Arab humanitarian organizations in the country were halted, thereby stopping all aid to refugees from Islamic countries. At the same time, the authorities in Azerbaijan increased pressure on Chechen refugees. They became victims of abuses by law enforcement, who openly extorted money from them and, if they did not receive the required sum, arrested the men as “militants” and extradited them to Russia, where they then encountered far more serious problems.²⁰

Chechen refugees held out hope for UNHCR’s Baku Office, which for the most part, however, was trying not to be very active in providing aid to these refugees, even to those who were registered and had received aid (one refugee receives approximately 40 Euros monthly from UNHCR, and for a family of two, 60 Euros.) In the media, representatives of Chechen refugees and Chechen refugees themselves openly outline their problems. First and foremost is the issue of children and obtaining

¹⁵ Ibid, p. 19-20.

¹⁶ Ibid, p. 20.

¹⁷ Arif Yunusov. *Migration Processes*, p. 240.

¹⁸ P. Ibragimkhalilova. *The Stream of Chechen Refugees is Not Stopping*. – Magazine “Echo”, Dec. 19, 2007

¹⁹ R. Orujev. *What are the Chechens in Azerbaijan Living On?* – Magazine “Echo”, April 21, 2001

²⁰ A. Yunusov. *Chechen Refugees in Azerbaijan*, p. 19

education for them. On one hand, refugees cannot receive metrics or the birth certificate of their children because the authorities refuse to issue such a document. As a result, refugees have often appealed to local courts with the help of Azeri human rights defenders. However, even after this they refused to issue birth documents. The main argument by the authorities was to demand that they contact the Russian consulate first to receive the necessary documents. However, Chechen refugees are categorically denied access to the Russian consulate and so they turn instead to the UNHCR office. But they get the same answer there as well.²¹

Without a birth certificate, it is not possible to study in schools and universities. But even if they had these documents, they would still face serious problems obtaining an education. They also cannot receive the right to work unlike the rest of the population in Azerbaijan. In sum, many of them become part of the criminal world, which further reinforces the local population's negative attitude toward Chechen refugees.

All of this has led to the fact that Chechen refugees do not have the opportunity to integrate into the Azeri host population. A large number of them are destitute and many are connected to criminal structures or dream of leaving as soon as possible for European countries via Turkey.

In sum, the number of Chechen refugees continues to decline. In 2010, there were 1,200 of them registered, and a year later only 900 remained.²²

The number of refugees, as well as asylum seekers from other countries was considerably smaller. The majority were refugees from Afghanistan, as well as Iraq and Iran (Table 1).

Table 1. Refugees Residing in Azerbaijan, by Country of Origin²³

Country of Origin	2005	2006	2007	2008	2009
Afghanistan	90	104	108	125	149
Armenia	0	0	0	1	3
Congo	0	1	1	1	1
Iran	55	71	90	97	92
Iraq	19	3	29	55	37
Pakistan	1	1	1	1	1
Russia	2.828	2.425	2.110	1.770	1.334
Syria	1	1	1	0	0
Turkmenistan	3	3	3	3	3
Palestine	7	9	9	8	1
TOTAL	3.004	2.618	2.352	2.061	1.621

Source: UNHCR

They generally treat Azerbaijan as a transit country, where they hope to receive refugee status and then move to the USA, Canada, and countries in Western Europe. But not all manage to do this and as a result, even with refugee status, many of them live in Azerbaijan for more than a year.

As far as asylum seekers are concerned, their numbers in Azerbaijan have always been insignificant. Moreover, according to data from UNHCR, the total number of asylum seekers in Azerbaijan in the period from 2005 to 2009 decreased by 4.4 times (Table 2):

²¹ Pamella Ibragimkhalilova. *In Azerbaijan They Refuse to Issue Metrics to Children of Chechen Refugees*, 30/08/2010 - <http://vesti.az/news/51644>

²² Pamella Ibragimkhalilova. *Chechen Refugees Flee Azerbaijan*. April 09, 2011. - <http://vesti.az/news/70370>

²³ *Azerbaijan: Extended Migration Profile. 2010.* - http://www.pragueprocess.eu/fileadmin/PPP/Azerbaijan_Extended_Migration_Profile_EN.pdf

Table 2. Asylum Seekers, who Applied for Asylum in Azerbaijan During the Corresponding Year, by Country of Origin²⁴

Country of Origin	2005	2006	2007	2008	2009
Afghanistan	192	133	175	153	93
Algeria	1	7	0	0	0
Armenia	0	0	0	1	3
Bangladesh	2	0	0	0	1
Burundi	1	0	0	0	0
Cambodia	1	1	0	0	0
Central African Republic	0	0	0	1	0
Congo	2	1	0	0	0
Georgia	3	5	1	0	0
India	1	4	1	0	0
Iran	101	71	39	32	21
Iraq	14	28	43	28	6
Jordan	0	6	0	0	0
Kazakhstan	3	0	1	0	0
Kyrgyzstan	0	1	0	0	0
Laos	0	0	1	0	0
Liberia	1	0	0	0	0
Nepal	4	0	0	0	0
Nigeria	4	0	0	1	0
Pakistan	56	36	21	29	72
Russia	641	373	254	138	39
Syria	7	5	0	0	0
Tajikistan	7	0	0	0	0
Turkey	4	1	0	0	0
Turkmenistan	0	0	1	0	0
United Arab Emirates	0	1	0	0	0
Palestine	9	0	0	1	0
Yemen	0	1	0	0	0
TOTAL	1.054	674	537	384	235

Source: UNHCR

²⁴ Ibid.

According to the data from the State Migration Service, from 2008-2009, 208 foreigners petitioned for asylum in Azerbaijan. Among the applicants were citizens of Afghanistan (94 people, i.e. 45.2% of total applicants), Pakistan (77 people, i.e. 37%), Iran (29 people, i.e. 13.9%), Iraq (5 people, i.e. 2.4%). One petition each was also received from citizens from the Central African Republic, Nigeria, and Bangladesh. From 2008-2009, two asylum applicants received refugee status (in total 5 people together with members of their families.)²⁵

The situation of these refugees is not as difficult as that of Chechen refugees. But even they have difficulties and problems. And in many ways these problems are similar. The Republic's authorities refuse to issue documents for the birth of a child, or a passport, to refugees and asylum seekers. As a result, they encounter the same problems obtaining work and education. Refugees from Afghanistan have ended up in an especially complicated situation: many of them have been living in Azerbaijan for 10-15 years, but still do not have passports or other documents that verify their identity. As such, they cannot leave the country, they cannot sign a work contract, and they work only through oral agreements in low-paying jobs. But even there problems arise because employers often embezzle their salary.²⁶ As a result, a considerable number of them are connected to the Republic's criminal world.

²⁵ Ibid.

²⁶ In Azerbaijan, the Salaries of Refugees from Afghanistan are Embezzled, June 07, 2010. <http://novostink.ru/sng/8184-v-azerbajdzhane-prisvaivayut-zarplatu-bezhencev.html>

**Social And Economic Rights of Refugees
and Displaced Persons in Azerbaijan**

ALOVSAT ALIYEV

Legal Module

Introduction

Patronage of the country is not limited to identifying the status of a refugee and displaced person and providing them with certain documents; it also deals with ensuring and protecting their social and economic rights. Azerbaijan is a post-Soviet country with a lot of refugees and displaced persons: 300 thousand naturalized refugees, 760 thousand displaced persons, around 2 thousand persons seeking political asylum and thousands of persons whose status is unclear¹. From the first days of independence, the Republic of Azerbaijan has been taking steps to improve legislation and strengthen government agencies that are involved in legal relations with asylum seekers, refugees and displaced persons and are in charge of their social protection.

This report aims to analyze current situation from the standpoint of legislation in the field refugee rights, namely right to labor and certain labor conditions, right to social protection and social security, access to public service, right to be provided with meals, clothes and residence, right to medical care, rights in the field of family relations and right to education.

Azerbaijan acceded to all UN Conventions relating to refugees and introduced certain changes into national legislation in accordance with these conventions. In addition to that, Azerbaijan is making efforts to solve the problems of displaced persons relying on UNHCR Guiding Principles.

In addition to the law “On status of refugees and forcibly displaced (persons displaced within the country) persons”², which is the main law regulating rights of refugees and displaced persons, Azerbaijan also adopted some normative acts to enforce that law³.

On May 21, 1999 the law “On social protection of displaced persons and persons⁴ equalized to them” was adopted. This law defines obligations of government bodies regarding accommodation of displaced persons and persons equalized to them (hereinafter referred to as displaced persons), their social protection etc.⁵.

1. Right of refugees and displaced persons to labor and certain labor conditions

A person who was granted refugee status has rights and obligations envisaged in legislation for foreigners and stateless persons. Article 6 of the law “On status of refugees and forcibly displaced (persons displaced within the country) persons” defines rights and obligations of refugees. Refugees enjoy the rights and freedoms of Azerbaijani citizens and have the same obligations, if it is not otherwise stipulated by the Constitution, the present law and other legal acts of the Republic of Azerbaijan.

Under the law “On status of refugees and forcibly displaced (persons displaced within the country) persons”, corresponding executive bodies assist refugees and displaced persons in finding a job. Uninterrupted work record is recovered at a new place of work according to the procedure envisaged by the legislation. During the period of being off the job due to advanced training or training for a new profession refugees or displaced persons get paid average salary typical for the new profession and the new job. Difference in salary over the whole work period due to the on-the-job change of profession is

¹ Collection of normative legal documents on refugees and displaced persons, Baku 2005, p. 3

² Adopted on May 21, 1999

³ “Rules of examination of refugee status applications” approved by the Decree of the Azerbaijani President “On application of the law “On status of refugees and forcibly displaced (persons displaced within the country) persons”.

⁴ Persons who left their place of permanent residence as a result of ethnic cleansing carried out in Armenia or other states and settled in Azerbaijan are equalized to displaced persons

⁵ Article 1 of the law “On social protection of displaced persons and persons equalized to them”

compensated to the refugee or displaced person (person displaced within the country) by an institution, enterprise or organization that concluded a labor contract with them⁶.

This law gives persons who applied for refugee status a right to temporary employment⁷. However, both persons who filed such applications and persons who were granted refugee status face problems when seeking employment. At the moment there are no new approved forms of refugee certificates in Azerbaijan, so the State Migration Service issues notes for extension of old certificates every three months to refugees who have such certificates. These certificates are valid only when presented together with a note and are the only documents proving refugee's identity. However, employers refuse to sign labor contracts with refugees on the basis of those certificates.

Employment of **displaced persons** is ensured by corresponding executive bodies in accordance with the government program⁸. The government creates favorable conditions for independent employment of displaced persons and for their commercial and entrepreneurial activities.

Displaced persons are provided with employment by way of setting a quota at public institutions and organizations, by creating new jobs etc. When it is impossible to provide displaced persons with permanent jobs, temporary or seasonal jobs are provided by corresponding executive bodies.

Displaced persons do not have to present their work record books when getting employed. In case of redundancy at an institution or organization displaced persons have a preferential right to keep their positions.

Bank loans can be given to displaced persons engaged in commercial and entrepreneurial activities according to the procedure established by corresponding executive bodies⁹.

Azerbaijani Migration Code does not recognize refugees as participants of migration processes¹⁰.

2. Right to social protection and social insurance

Persons who were granted refugee or displaced person status (status of a person displaced within the country) have a right to the following social security types:

- i. up to three months of free-of-charge accommodation at dedicated facilities until they get employed or settle in their place of residence;
- ii. free-of-charge provision of senior persons, children, disabled, and poor, as well as families who lost their providers, with necessary pharmaceuticals and medical assistance in places of temporary residence and hospitals;
- iii. education of children at preschool instructional institutions, and children and youth at corresponding educational institutions;
- iv. acquisition of food and industrial goods on a par with citizens permanently residing at localities;
- v. one-time and other types assistance set by the government;

⁶ Article 16 of the law "On status of refugees and forcibly displaced (persons displaced within the country) persons";

⁷ Article 11 of the law "On status of refugees and forcibly displaced (persons displaced within the country) persons"

⁸ Decree of Azerbaijani President on approving "The State Program for improvement of accommodation conditions and increase in employment of refugees and displaced persons"

⁹ Article 7 of the law "On social protection of displaced persons and persons equalized to them"

¹⁰ Article 5 of the Migration Code does not recognize refugees and asylum seekers as participants of migration processes. List of documents (Article 65 of the Code) to be submitted when applying for a work permit does not include refugee certificate, as far as refugees are equalized to foreigners permanently residing in Azerbaijan and they do not need a work permit.

- vi. priority accommodation of retirees and legally incompetent disabled persons who have no family at special social security institutions¹¹.

Under the law “On social protection of displaced persons and persons equalized to them”, the following social protection measures are applied to displaced persons:

- vii. providing temporary housing space;
- viii. providing a job;
- ix. social security;
- x. medical support;
- xi. ensuring the right to education;
- xii. preferential use of transport and housing and public utilities;
- xiii. tax benefits¹².

3. Right of access to public service

Azerbaijani legal acts regulating legal relations with refugees and displaced persons do not envisage any norms regulating their right of access to public service. Under the law “On public service”, only citizens of the Republic of Azerbaijan have a right to enter into public service¹³.

In that case, unlike displaced persons, refugees cannot enter public service, as far as they are foreign nationals or stateless persons.

4. Right to be provided with meals, clothes and accommodation

Corresponding authorities of Azerbaijan provide refugees and displaced persons (persons displaced within the country) with temporary or permanent accommodation, following rules established by the legislation currently in force. Expenses incurred by a refugee or displaced person (person displaced within the country) due to relocation from temporary residence to permanent residence and workplace are reimbursed in the amount set and according to the established procedure¹⁴.

The right to be provided with meals, clothes and accommodation is regulated by articles 5 and 9 of the law “On social protection of displaced persons and persons equalized to them”. Under article 5, a corresponding executive body is in charge of displaced persons’ accommodation. For that purpose they use residential, administrative and accessory buildings that are suitable or can be made suitable for accommodation. If it is impossible to place displaced persons to such buildings or if population density in some localities does not allow that, displaced persons are placed in camps specifically arranged for them. These camps must meet certain accommodation requirements. Displaced persons are allowed to take care of their own temporary placement, if that does not violate the rights and legal interests of other persons. Otherwise, corresponding executive bodies are to resettle displaced persons to another living space within the given locality.

Under article 9, one-time and regular monetary allowance is paid and displaced persons are provided with food and industrial goods, according to the procedure established by the corresponding self-government body.

¹¹ Article 6 of the law “On status of refugees and forcibly displaced (persons displaced within the country) persons”

¹² Article 4 of the law “On social protection of displaced persons and persons equalized to them”

¹³ Article 27 of the law “On public service”

¹⁴ Article 17 of the law “On status of refugees and forcibly displaced (persons displaced within the country) persons”

Legal and physical persons, as well as international organizations are independent in rendering material assistance and humanitarian aid to displaced persons.

5. Right to medical assistance and education

Medical assistance to displaced persons is provided directly by medical institutions in the territories where they are placed. Medical assistance to displaced persons placed outside localities is arranged by a corresponding self-government body. Displaced persons are put in public medical institutions on a preferential basis and enjoy all types of medical care free of charge. They are provided with pharmaceuticals free of charge, according to the procedure identified by corresponding self-government bodies¹⁵.

Preschool and secondary education of children of displaced persons settled in camps created outside localities is arranged by a corresponding self-government body, in accordance with relevant educational standards. Children of displaced persons studying at general schools are provided with textbooks and school supplies free of charge.

Displaced persons undergoing education at higher or specialized secondary education institutions are exempt from tuition. Private higher and specialized secondary education institutions can offer certain preferences to displaced persons¹⁶.

Legislation does not envisage any norms regarding the right of displaced persons to get married.

¹⁵ Article 10 of the law “On social protection of displaced persons and persons equalized to them”

¹⁶ Article 11 of the law “On social protection of displaced persons and persons equalized to them”

**Refugees and Forced Migrants
in Azerbaijan: the Political Context**

SERGEY RUMYANSEV

Socio-Political Module

In Azerbaijan, the end of the 1980s-the first half of the 1990s were marked by a massive forced displacement of the population. The chief cause was the Nagorno-Karabakh conflict, which forced hundreds of thousands of people to flee their permanent place of residence.¹ By the summer of 1989, practically all ethnic Azeris and Muslim Kurds were deported from the Armenian territory of the Soviet Union. The majority of them ended up in Azerbaijan as refugees. At the end of the 1980s, the Meskhetian Turks from the Central Asian region also arrived as refugees. "According to data provided by the Azeri government [in 1996], 196,845 of refugees were ethnic Azeris and 51,649 were Meskhetian Turks from Uzbekistan."² In this case, this data refers only to one version of statistics of refugees from Armenia. According to another possible version: "in 1988-1989, the official statistics recorded 219,776 people who came to Azerbaijan from the neighboring republics."³ The difference in the figures is due not so much to the difficulties in the accounting, as to the fact that the statistics of the numbers of refugees from Armenia is a political question. Either way, in the majority of statements by the Azeri politicians or publications in the Azeri media, the number of refugees varies between 200 and 250 thousand people.

The absolute majority of ethnic Armenians residing outside the Nagorno-Karabakh Autonomous Region were in turn deported from the Azerbaijan SSR. According to the last Soviet census, in 1989, approximately 390,500 Armenians lived in Azerbaijan. Per the first census conducted in independent Azerbaijan in 1999, 120,700 ethnic Armenians were citizens of the country. According to the last census conducted in the country in 2009, 120,300 Armenians were living in the Republic of Azerbaijan.⁴ Thus, based on the figures of the last three censuses, by 1990, approximately 270 thousand ethnic Armenians had become refugees from Azerbaijan. As for Armenians included into the composition of the country's population, there is a rough estimate of the number of Armenians in the Nagorno-Karabakh region, based on the data from the 1989 census. In fact, this region is not managed by the Azeri authorities, and census workers did not have access in the Karabakh region. It should also be noted that a number of statements by the Azeri politicians mention that there are up to 30 thousand ethnic Armenians residing in Azerbaijan. One of the most recent statements of this kind was made in September 2013 in connection with a report on the status of human rights and freedom of speech, prepared by the international organization Human Rights Watch.⁵ In opposition to the authors of this critical report, the head of the Office of Political Analysis and Information in the Office of the President of Azerbaijan Elnur Aslanov claimed that:

"The report's claims about the prevalence of "Armenophobia" in Azerbaijan are absurd. They are a product of sick imagination. While not a single Azeri remained in Armenia today, not counting our prisoners, over 30 thousand people of Armenian descent reside in Azerbaijan. Furthermore, the Azeri government considers the Armenian community of Nagorno-Karabakh to be citizens of Azerbaijan, and in the post-conflict period the Azeri community will continue to live together with them."⁶

Thus, in the content of political discourse, constructed in the context of the Nagorno-Karabakh conflict, a significant role is attributed to the number of ethnic Armenians residing in Azerbaijan outside the Nagorno-Karabakh region. The figure of 30 thousand people does is not backed up by

¹ See: Waal-de T. (2003), *Black Garden: Armenia and Azerbaijan through Peace and War*. New York: New York University Press; Cornell S. E. (2011), *Azerbaijan since Independence*, New York: M. E. Sharpe, p. 126-161.

² World Refugee survey 1997, Committee of Refugee, p. 168.

³ Guseinova, I (2001), Refugees, their Status and Role in Modern Azeri Society in: D.E. Furman, eds., *Azerbaijan and Russia: Society and Government*, Moscow: The Summer Garden, p 323-336. Downloaded from http://old.sakharov-center.ru/publications/azrus/az_011.htm, on September 12, 2013.

⁴ Population by ethnic groups, by native language and freely command of languages. Доступно по адресу <http://www.stat.gov.az/source/demography/indexen.php> дата доступа 15 сентября 2013.

⁵ Tightening the Screws: Azerbaijan's Crackdown on Civil Society and Dissent, 2013, USA: Human Rights Watch.

⁶ The Office of the President of Azerbaijan responded to accusations by Human Rights Watch. Downloaded from <http://www.br.az/politics/20130904110206784.html#page999>, on September 16, 2013.

the official statistics. In this case, it is a populist statement that is put forward by the Azeri authorities in the context of an essentialist discourse about the “genetic tolerance” of the Azeris. . Either way, these and similar political statements shed doubt on the declared number of Armenian refugees from Azerbaijan.

During various years in the post-Soviet period the mass of refugees was also replenished by the ethnic Chechens. According to Dede Lei of UNHCR, the UN agency for Refugee Affairs in Azerbaijan, in March of 2000 his organization provided assistance to 450 families. “The total number of this category of refugees registered was 5,400 people.”⁷ The number of the Chechen refugees was constantly changing, and it is not possible to state the exact number.⁸ Many Chechens see Azerbaijan as a transit point on the way to EU countries, the US, or Canada. From a political context, the Chechen refugee problem was related to specific relations between Russia and Azerbaijan. After Vladimir Putin came to power and gradually improved the relationship between Russia and Azerbaijan, the problem has quickly lost its urgency. In the 2000s, the Azeri government deported refugees to Russia several times, which caused discontent amongst the ethnic Chechens residing in the country.⁹ At the same time, in the opinion of some international organizations staff,¹⁰ there has been a sharp decrease in their numbers in recent years.

The political relevance of the problems of the Chechen refugees - as they are considerably less significant in number and are practically imperceptible in the political context of refugees from Afghanistan, Iraq, and some other countries - cannot be compared with those of the Azeri refugees. In the context of political and politicized statistical discourse, Azeri refugees from Armenia are most often combined with the IDPs. The latter are understood as persons who had been forced to leave their homes during various kinds of clashes and armed conflict in 1990-1994. The absolute majority of IDPs are ethnic Azeris,¹¹ residents of Nagorno-Karabakh (mostly from the Shushinskiy region) and several regions adjacent to this area (Lachinskiy, Kelbajarskiy, Ardamskiy, etc.), which are occupied by the Armenian armed forces. According to Iranda Guseinova:

“Today the international community claims that there are one million refugees and migrants in Azerbaijan. The president, the members of the administration, as well as the politicians, the members of the national parliament and some media repeat this figure all the time. Thus, the official data do not differentiate “refugees” from Armenia and “IDPs” from Karabakh and other adjacent regions [...] But even if one adds the number of refugees from Armenia and the number of IDPs, it still seems that one million is an exaggerated figure. According to the latest official statistics, the number of IDPs and refugees can be calculated at 568,989 persons and 219,776, respectively, in total, 788,765 people, but not one million.”¹²

Everyday problems of refugees and IDPs have been to a large extent similar (the lack of permanent housing, difficulty in finding employment etc.) These problems were exacerbated by the stagnation of the economy in the 1990s, which occurred after the collapse of the Soviet Union. The main distinction between these two categories of Azeri citizens, which becomes significant in the context of political discourse, is a different understanding of their possible future. A widespread policy is such that the

⁷ Lynch D. (2002), *Separatist States and Post-Soviet Conflicts*, International Affairs (Royal Institute of International Affairs), Vol. 78, No. 4, p. 831-848, pp. 835.

⁸ All kind of figures have been in the media. For instance, the number of refugees from Chechnya analysts’ new site “Caucasian Knot” was estimated to be 10 thousand people in 2008. See: *Refugees from Chechnya want to Leave Azerbaijan*. Downloaded from <http://www.kavkaz-uzel.ru/articles/138178>, 10.09.2013 on September 16, 2013.

⁹ See for instance: *Refugees from Chechnya are Not Satisfied with Life in Azerbaijan*. Downloaded from <http://www.kavkaz-uzel.ru/articles/116600/> on 11.09.2013; *In Azerbaijan Refugees from Chechnya Have Declared a Violation of Rights*. Downloaded from <http://www.kavkaz-uzel.ru/articles/149739> on September 11, 2013.

¹⁰ With whom the author was able to speak with in August 2013 in Azerbaijan.

¹¹ Ethnic Kurds and Russians were also included among the IDPs.

¹² Guseinova, I., *ibid*.

return of the IDPs to the place of their former residence should be considered a mandatory condition for the conclusion of a peace treaty, and, at the same time, a discussion of a possible return of refugees (Azeris to Armenia and Armenians to Azerbaijan) is in fact more declarative in nature.

The number of refugees and IDPs is impressive relative to the general population of the country.¹³ Refugees and IDPs have an essential role in the political discourse, constructed around conflict. The present situation is linked to a number of factors: the Nagorno-Karabakh conflict to date has not been solved, and prospects for international regulation remain slim; after 1994, the revanchist mood gradually strengthened in Azerbaijan; in the 2000s, the level of militarization has been quickly growing in the country; and, finally, country authorities at the very highest level are constantly using the rhetoric of war and threat to resolve the conflict by force.¹⁴ It is in this context that one needs to consider the politicization of refugee statistics. The more people that can be placed into this category, the more convincing the position of the Azeri authorities becomes. The most popular figure, as discussed earlier, is one million. But this is not the limit. In June 2013, Ali Hasanov, the Deputy Prime Minister and Chairman of the State Committee on Refugee Affairs and IDPs, stated in his interview that:

“Increasing by 10 thousand people every year, the figure has reached one million 200 thousand. This means that 1.2 million people – out of 9 million population—are refugees and IDPs. That is to say, if one out of every 135 persons around the world is a refugee, in Azerbaijan, every 8th person is a refugee. Our problem is very difficult.”¹⁵

Thus, on the one hand, in the context of the permanent political conflict in Nagorno-Karabakh, the problem with refugees and IDPs is represented as no less permanent and resolvable only in parallel with the conflict. On the other hand, this same problem can be considered a resource for the construction of a positive political image for the governing regime. The President of Azerbaijan, Ilham Aliyev, often claims in his statements that the authorities successfully resolve the problems of this category of citizens. In April 2013, during the meetings with the IDPs, the President stated that:

“the persons responsible for questions related to refugees unequivocally say that this issue is dealt with at the very highest level in Azerbaijan. Many countries in the world have problems related to refugee and IDP. However, the most successful method of dealing with these issues has been found in Azerbaijan. You see, in the world—in the Near East, in other places—IDPs face big problems. Now hundreds of thousands of people have become IDPs. This kind of thoughtful resolution of this issue in Azerbaijan paves the way for these countries as well.”¹⁶

Another important aspect of the politicization of the problem of refugees and IDPs is related to the increasing criticism in recent years of the Azeri regime for its autocratic character. In the context of this criticism, the regime as a rule uses the situation with refugees and IDPs as a counter argument with the goal of, for instance, discrediting various international human rights organizations in the eyes of the citizens. For instance, Elnur Aslanov states:

¹³ To understand the scale of what has happened, one can compare the number of refugees and IDPs in various European countries. In 1996, there were 2,479,000 refugees registered in European territory, i.e., approximately every tenth of them was from Azerbaijan. Furthermore, in terms of number of refugees, the Republic of Azerbaijan ranked 4th place in Europe. More refugees were found only in Germany- 436,400, Russia- 484,000, and Yugoslavia- 550,000 people. World Refugee Survey 1997, Committee of Refugees, p. 4.

¹⁴ Waal-de T. (2009), *The Karabakh Trap: Dangers and Dilemmas of the Nagorny Karabakh Conflict* // Conciliations Resources. London.

¹⁵ *In Azerbaijan there are one million two thousand refugees and IDPs*. Downloaded from <http://www.1news.az/society/20130620045702036.html>, data доступа on September 15, 2013.

¹⁶ Ilham Aliyev: Given that the population in the country is mostly refugees and IDPs in Azerbaijan. Downloaded from http://www.aze.az/news_ilxam_aliev_s_89874.html on September 16, 2013.

“Why does the organization [Human Rights Watch] remain silent about over one million refugees and IDPs, whose rights and freedoms have been violated, without bringing the attention of the international community to this issue?!”¹⁷

Novruz Mamedov, Chief Deputy of the Office of the President of the Republic of Azerbaijan, who heads the Department of Foreign Relations, emphasized that:

“Had during the 20 years of its existence the Human Rights Watch organization produced at least one fair report about the violation of rights of more than one million of Azeri citizens who have become refugees and IDPs as a result of the Armenian aggression, then one could believe in the impartiality of this structure. But, unfortunately, this is not the case. Such organizations always act following someone else’s instructions.”¹⁸

Conclusions and Recommendations

In the context of a conflict discourse, the factor of the existence of refugees and IDPs in the country becomes an important political resource. The authorities and the opposition actively use this factor in political fights and to strengthen their own positions. As a certain homogenous group, refugees and IDPs do not exist outside of the political discourse. Over the past 20 years, the refugee population has become strongly differentiated.

A full resolution of issues related to this category of persons, and their de-politicization, is possible only in a situation of a lesser relevance of the Nagorno-Karabakh conflict. In the present-day situation, possible approaches that would help to successfully resolve the problems related to this category of persons and, at the same time, would become real steps in the direction of world regulation of the conflict, can be identified as the following:

- It is necessary to stop mythologizing the stories of refugees and IDPs. Economic and discursive resources should be directed towards the resolution of their problems, and not to the construction of some homogenous group, whose existence becomes a resource for further militarization of the country and the preservation of an autocratic style of governance.
- It is necessary to more actively create initiative groups composed of refugees and IDPs themselves, who could take an active part in the shaping of public policy relating to these groups of population.
- Finally, in terms of a real step that is necessary to solve the conflict (and, accordingly, resolve problems of refugee and IDPs), it must be pointed that it is necessary to break out of the deadlock on the issue of compensation payments to ethnic Armenian refugees from Azerbaijan and to the Azeri from Armenia.

¹⁷ Office of the President of Azerbaijan...ibid.

¹⁸ The Human Rights Watch report on Azerbaijan is unobjective and prejudiced. Downloaded from <http://www.1news.az/politics/20130905040057280.html> дата доступа, September 16th, 2013.

**Refugees And Displaced
Persons In Georgia**

MIRIAN TUKHASHVILI

Demographic and Economic Module

Forced migration is the most pressing problem in terms of the territorial mobility of the Georgian population. Forced migration has varied over time. Mass-scale transfer of the local population by conquerors and forced migration to other countries (Iran, Turkey and Russia) took place in the past. But there was also further organized and disorganized migrations from these countries and individuals sought asylum in Georgia. Of course, we will examine only those flows that currently present a significant problem.

Refugees

Most refugees found themselves in Georgia as a result of the last Russian-Chechen war. They arrived in Georgia from Russia in several flows. According to the 2002 census, 3,751 refugee arrived in Georgia, mostly Chechens. They were primarily settled in the Pankisi Gorge close to the Georgian-Chechen border, in the village of Duisi and other surrounding centres. Most of them have already gone back to Russia. The Russian and Georgian authorities have undertaken measures to get the rest of them back to the home country. 573 refugees have remained. Their gender and age distribution is presented in table 1.

Table 1. Age and gender distribution of refugees in Georgia in 2012

Gender	Age					
	0-4 years	5-11 years	12-17 years	18-59 years	60 years and older	Total
Men	29	52	38	151	15	285
Women	24	35	41	183	5	288
Total	53	87	79	334	20	573

Source: <http://www.mra.gov.ge>

In post-Soviet ethno-political conflicts and ethnic cleansing undertaken by separatists in Abkhazia and South Ossetia part of the Georgian population was forced to leave the country. These forced migrants are presently staying in the Russian Federation, some of them reside near the Russian-Georgian border, in Krasnodar territory. Only a fraction has refugee status.

During the post-Soviet period large flows of Ossetians moved out of Georgia, some of them have refugee status and reside in North Ossetia and other parts of Russia. A significant share of these individuals left Georgia in the early 1990s due to the difficult economic situation and political chaos: above all, the presence of illegal armed gangs. And during the Russian-Georgian war of 2008 a large group of Ossetians had to leave the Tskhinvali Region and hide in the North-Ossetian Republic of the Russian Federation. According to a Parliamentary Assembly of the Council of Europe, 1,200 persons had not returned to their homes, as of April 2009¹.

Displaced persons

In the early post-Soviet period over half of the population of the Abkhazian region of Georgia moved to other regions as a result of ethnic cleansing. According to the census of 1989, 525,000 people resided in Abkhazian ASSR. In 2003, according to the census carried out by the separatist authorities,

¹ V. Pakhomenko. Inhabited island [in Russian]. <http://www.polit.ru/article/2009/09/22/demo/>

only 215,900 stayed there. 309,000 (59%) were driven out of Abkhazia by ethnic cleansing². Large flows of refugees were registered coming from Tskhinvali Region (15,000)³, where in 2008 ethnic cleansing occurred during the Russian-Georgian war and where the Georgian population was driven out completely. As of 2012, 265,109 persons in Georgia (6% of the population of Georgia)⁴ had the status of displaced persons and were paid a corresponding allowance (see table 2).

Table 2. The load of displaced persons on the population of Georgia, as of April 2012

Regions	Population, thousand persons	Displaced persons, persons	Load on every 10000 persons
Adjara	393.9	6 556	166
Guria	139.8	531	38
Imereti	705.7	25 539	362
Kakheti	406.1	1500	37
Mtskheta-Mtianeti	109.3	10 640	974
Racha-Lechkhumi and Kvemo Svaneti	46.7	937	201
Samegrelo-Zemo Svaneti	478.2	89 538	1872
Samtskhe-Javakheti	213.8	2 359	110
Kvemo Kartli	511.2	12 336	241
Shida Kartli	314.0	16 161	515
Tbilisi	1172.0	98 550	841
Have no address		462	
Total	4490.7	265 109	590

Source: <http://www.mra.gov.ge>

As can be seen from the table, forced migrants are rather non-uniformly distributed across Georgian regions. An especially high load of displaced persons on the population can be seen in the areas adjacent to the conflict: Samegrelo-Zemo Svaneti, Shida Kartli and Mtskheta-Mtianeti, as well as Tbilisi. Naturally, the mass forced exile of the population significantly worsened the demographic situation in the occupied regions, where less than half of the population remained.

Despite efforts on the part of the Georgian government and considerable international aid, the position of displaced persons is rather grave. Many studies are devoted to their daily routine. We led the study carried out by the Center of Migration Studies of the Ivane Javakhishvili Tbilisi State University, which covered refugees from both Abkhazia and Tskhinvali Region in locations with their highest concentration (in the cities of Tbilisi, Zugdidi, Gori)⁵.

² According to objective assessment of T. Blumgardt, at present 185,000-205,000 persons reside in Abkhazia: 27.5% - Georgians, 32.9% - Armenians, 30.2% - Abkhazians, 8.2% - Russians, 1.2% - others. According to his data, the current population is only 55,000-60,000, while 20,000-25,000 reside in other countries and are only registered in Abkhazia. Blumgardt T. Population of Abkhazia. Where is the truth?! [in Russian] <http://abkhazeti.info/news/1305685446/php>

³ V. Pakhomenko. Inhabited island [in Russian]. <http://www.polit.ru/article/2009/09/22/demo/>

⁴ From 1 August to 27 December 2013 the Ministry of Refugees and Settlement will register and account for persons displaced from occupied Georgian territories. This will allow obtaining detailed information on the demographic and social state of temporarily displaced persons.

⁵ Internally Displaced Persons in the Georgian Labour Market. Universali, Tbilisi, 2012.

The study revealed that unemployment is very high among displaced persons. Their main income is provided by public welfare payments or retirement benefits, which is significantly lower than minimum subsistence level. One of the characteristic features of unemployment is that it is long-term. 49% of unemployed displaced persons from Abkhazia have been jobless for over three years. Because of this the income of their families did not exceed, on average, 180 lari, which is much lower than the minimum subsistence level.

Although new jobs were recently created in areas with a high concentration of IDPs, this is not enough. Professional retraining has been organized, in order to help them better adapt to the labor market, but it has not yet had significant results. That is why labor emigration is much more intensive among displaced persons than emigration from Georgia on average⁶. This can be explained by very grave living conditions in areas where they temporarily reside, their limited employment opportunities in the local labor market, and their extremely low income level. It was revealed that a displaced labor emigrant sends 358 US dollars from overseas to his or her family every month: this is 3.5 times more than the income of families staying behind (101 USD)⁷. Money transfers fill the gap between the budget of families staying behind and the minimum subsistence level.

The international community acknowledged that the right way to resolve the problem of forced migrants is to ensure their return to previous places of residence, to the regions of Georgia occupied by the Russian Federation. Despite considerable efforts on the part of the international community, there are no clear prospects of this.

Problem of repatriation of Meskhetian Turks

Resettlement of the so-called Meskhetian Turks is a problem for Georgia. In 1944, during WWII, they were deported from Georgian areas bordering on Turkey and were sent to Central Asia and Kazakhstan. In fact, following the Ruling of the Soviet Defense Committee No. 6279 of 31 July 1944 and the Decree of the Soviet Ministry of Interior No. 00117, 19,818 families were transferred from areas bordering Turkey, including Turkish families – 14,493, Kurds – 1,830, Azerbaijanis – 3,058, Ezids – 7, Tartars – 126 and Hemshils – 304 families⁸.

In the postwar period (in 1957) during the return of the deported population the-then government of the USSR did not bring Crimean Tartars and Meskhetian Turks back to their regions for political reasons. In the period preceding the collapse of the USSR, in 1989, they were attacked during the notorious (and provoked) Ferghana conflict, driven out from their places of residence without any particular destination and spontaneously guided in the European part of the USSR and Azerbaijan. Some of them then went abroad (20,000 persons to Turkey and 10,000 persons to the USA), some of them integrated, some formed refugee camps and can be mostly found in North Caucasus and Azerbaijan⁹. Some demand to be returned to their historic homeland: Georgia.

In the post-Soviet period catastrophic events occurred in Georgia: namely domestic discord, political chaos, economic collapse, the Russian-Georgian war and other destructive processes. Given these the organized return of Meskhetian Turks became impossible. In addition to the local population in the places they had been deported from, one can find persons who moved there 70 years ago from other areas of Georgia, most of them were born and grew up in this area. Besides, this near-border region has exhausted its demographic capacity. At the same time the population of the Javakheti region (primarily

⁶ Tukhasvili M., Toria M. Labor emigration of persons displaced from Abkhazia. – In volume “Migration 3”. Tbilisi, “Universal”, 2009, p. 86-97.

⁷ Ibid, p. 93

⁸ Meskhetian Turks. <http://iberiana.wordpress.com/turqi-mesxebi/#1> [in Georgian]

⁹ Meskhetian Turks. <http://dic.academic.ru/dic.nsf/es/90520/>.

ethnic Armenians) is emphatically against the return of the Turkish population to this region¹⁰. And the near-border mountainous area of Adjara is located in the zone of environmental disaster.

On the other hand, Georgia's obligation regarding the return of Meskhetian Turks to Georgia, undertaken when Georgia joined the Council of Europe, needs to be implemented. One should note that their small-scale organized movement started long ago. Their cultural and economic adaptation and integration into the local environment in a non-border region of Georgia (Samtredia municipality) proceeded normally.

Therefore, forced migrations are a grave problem for present-day Georgia. Alleviating the dire consequences of those migrations would be impossible without the assistance of the international community. The main tasks are the de-occupation of those Georgian territories occupied by the Russian Federation and the creation of conditions for the safe return of refugees to their previous places of residence.

¹⁰ Ibid

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**Access of Refugees, Asylum Seekers and IDPs to
Socio-Economic Rights: the Case of Georgia**

GAGA GABRICHIDZE

Legal Module

Access of internally displaced persons to socio-economic rights

The principal goal declared by the government policies for internally displaced persons (IDPs) is to promote the socio-economic integration and improve the living conditions of the same.¹

*The Law on Internally Displaced Persons from the Occupied Territories of Georgia*² is the main legal act regulating relations with regard to IDPs. The Law determines, *inter alia*, legal, economic and social guarantees for IDPs.³ Furthermore, the law designates the Ministry of Internally Displaced Persons from the Occupied Territories, Refugees and Accommodation as responsible for organizing the IDP assistance.⁴ According to the law, IDPs are entitled to the following social benefits: temporary accommodation and essential first aid,⁵ assistance in finding temporary employment in accordance with their profession and qualifications,⁶ free secondary education in public schools⁷ and health coverage under existing state programs and insurance.⁸

The law on Internally Displaced Persons from the Occupied Territories of Georgia also emphasizes that, prior to the restoration of Georgia's jurisdiction over the respective part of the territory of Georgia, IDPs may not be evicted from their temporary residences. The only exceptions are when: a written agreement is signed with the IDP; a new place of residence is allocated which will not represent a worsening of the IDP's current housing situation, in case of *force majeure* or catastrophes; appropriate compensation is provided for in accordance with the general rules; or space is occupied illegally in violation of the law.⁹ In case of the return of IDPs to their permanent places of residence, the state shall create, *inter alia*, necessary social-economic living conditions for safety at their places of permanent residence. The state is also obliged to return private property to displaced people, including houses and the land with compensations for any damage.¹⁰

*The Law on Property Restitution and Compensation for the Victims of Conflict in the Former South Ossetian Autonomous District in the Territory of Georgia*¹¹ establishes the legal procedures for the restitution of property and the compensation of property damage of natural persons who were victims of the conflict in South Ossetian Autonomous District in the territory of Georgia. In particular, the law establishes legal guarantees for these persons to receive real property. Alternatively, in cases where the restitution of housing and other immovable property is impossible, they will receive adequate (alternative) accommodation of identical value, or in cases where the acquisition of adequate (alternative) accommodation is impossible, they will receive compensation for damage to their property.

¹The State Strategy for Internally Displaced Persons. The State Strategy was approved by the Edict No 47 of 2 February 2007 of the Government of Georgia on Approving of the State Strategy for Internally Displaced Persons, www.mra.gov.ge.

²Adopted on 28 June, 1996 (Last amended on 11 June 2013). „Parlamentis Utskebani“, 18-20, 28/06/1996.

³Articles 5, 5¹, 5², 5³, 5⁴ of the Law on Internally Displaced Persons from the Occupied Territories of Georgia.

⁴Article 8 of the Law on Internally Displaced Persons from the Occupied Territories of Georgia.

⁵Articles 3.3 and 5⁴.1 h) of the Law on Internally Displaced Persons from the Occupied Territories of Georgia.

⁶Article 5⁴.1 a) of the Law on Internally Displaced Persons from the Occupied Territories of Georgia.

⁷Article 5⁴.1 c) of the Law on Internally Displaced Persons from the Occupied Territories of Georgia.

⁸Article 5⁴.1 c) of the Law on Internally Displaced Persons from the Occupied Territories of Georgia.

⁹Article 5³.2 of the Law on Internally Displaced Persons from the Occupied Territories of Georgia.

¹⁰Article 7.1 of the Law on Internally Displaced Persons from the Occupied Territories of Georgia.

¹¹Adopted on 29 December, 2006. „Sakartvelos Sakanonmdeblo Matsne“, 51, 31/12/2006.

“The Action Plan for the Implementation of the State Strategy for Internally Displaced Persons from the Occupied Regions of Georgia 2012-2014”¹² provides for various housing programs. Moreover, the Decree of the President of Georgia of 2 February 2009, No 62¹³ governs the transfer of ownership of living space in collective centers, empty buildings and new apartment blocks. In accordance with this decree, the immovable state property was transferred to IDPs for the symbolic price of GEL 1 (c. EUR 0.40). Furthermore, according to the Tax Code of Georgia,¹⁴ IDPs are exempt from paying taxes for state property transferred to them and also for compensation received by them within the framework of the privatization program.¹⁵

The *State Strategy for Internally Displaced Persons* stipulates the implementation of special vocational education and training programs for IDPs within state educational programs in order to enhance employment opportunities.

The Edict of the Government of Georgia of 9 December 2009, No 218¹⁶ designates IDPs living in compact settlements as one of the beneficiaries of State Health Insurance. Besides, due to their poor economic situation the majority of IDPs are qualified to enroll in the health insurance state program for the population below the poverty line.

The Law on State Budget of Georgia for 2013¹⁷ provides a set amount per IDPs settled in the collective centers for communal expenses, such as electricity and water consumption, waste disposal, etc. Whereas, the persons settled in Tbilisi receive monthly GEL 10.2 (c. EUR 4.5) and those settled in regions – GEL 5 (c. EUR 2.2).

In accordance with the Edict of the Government of Georgia of 28 July 2006, No 145,¹⁸ IDPs receive a status-based monthly allowance from the state: GEL 28 (ca. EUR 12) per person for IDPs living in private accommodation; and GEL 22 (ca. EUR 8) per person for IDPs living in collective centers.¹⁹ Furthermore, IDPs have the option of choosing to register with the Social Services Agency and of receiving targeted social assistance. Though, in this case, they retain their IDP status they have to forgo their IDP allowance. Currently, targeted social assistance is GEL 60 (c. EUR 25) for the head of a household and GEL 48 (c. EUR 20) for other household members.²⁰

The Edict of the Government of Georgia of 23 August 2013, No 218²¹ stipulates that social grants for financing their study can be awarded to students, who are – inter alia – from conflict regions and internally-displaced families.²²

¹² Approved by the Decree No 403 of 28 May 2009 of the Government of Georgia (Last amended on 3 November 2011), www.government.gov.ge.

¹³ Decree No 62 of 2 February 2009 of the President of Georgia on Privatization through Direct Sale of the State-Owned Property and of property of the Tbilisi Self-Governing Entity Government of Georgia, www.matsne.gov.ge, 02/02/2009.

¹⁴ Adopted on 17 September 2010 (Last amended on 30 July 2013). “SakartvelosSakanonmdabloMatsne”, 54, 12/10/2010.

¹⁵ Article 82.1 m) of the Tax Code.

¹⁶ Edict No 218 of 9 December of the Government of Georgia on Measures for Insuring Health of Population within the Framework of State Programs and the Terms of an Insurance Voucher”. www.government.gov.ge.

¹⁷ Adopted on 20 December 2012. www.matsne.gov.ge, 29/12/2012.

¹⁸ Edict No 145 of 28 July 2006 of the Government of Georgia on Social Assistance (Last amended on 21 June 2013). “SakartvelosSakanonmdabloMatsne”, 101, 01/08/2006.

¹⁹ Article 10⁵.1 of the Edict No 145 of 28 July 2006.

²⁰ Article 6 of the Edict No 145 of 28 July 2006.

²¹ Edict No 218 of 23 August 2013 of the Government of Georgia on Defining Conditions and Amount of Financing those Students with State Study Grants within the Social Program, which are Enrolled in Accredited Higher Educational Programs of Higher Educational Institutions Based on Results of the Unified National Exams. www.matsne.gov.ge, 23/08/2013.

²² Article 3.1 of the Edict No 218 of 23 August 2013.

Access of refugees and asylum seekers to socio-economic rights

*The Constitution of Georgia*²³ stipulates, as a general rule, that foreign citizens and stateless persons residing in Georgia shall have the same rights and obligations as Georgian citizens with exceptions envisaged by the Constitution and law.²⁴ The main legal act containing specific provisions on the rights of refugees and asylum seekers is *the Law on Refugee and Humanitarian Status*.²⁵ It provides asylum seekers, *inter alia*, with the following rights: to receive the application for temporary accommodation and to live free of charge at the accommodation centers, and, in special cases, at the place of temporary residence identified by the Ministry of Internally Displaced Persons from the Occupied Territories, Refugees and Accommodation; to receive other types of assistance at the accommodation centers or at a place identified by the Ministry of Internally Displaced Persons from the Occupied Territories, Refugees and Accommodation; to enjoy the right to education equal to the citizen of Georgia; to receive medical and social assistance as provided for by the legislation of Georgia; to enjoy the right to employment pursuant to the Georgian legislation; and to enjoy the rights granted to foreign citizens by the Georgian legislation, if not otherwise envisaged by the Law on Refugee and Humanitarian Status.²⁶

As to refugees and persons with humanitarian status, they have, *inter alia*, the following rights: to live up to three months after receiving the refugee/humanitarian status at the accommodation centers, and in special cases, at the place of temporary residence identified by the Ministry of Internally Displaced Persons from the Occupied Territories, Refugees and Accommodation; to choose within three months of receiving the refugee/humanitarian status a residential area offered by the Ministry of Internally Displaced Persons from the Occupied Territories, Refugees and Accommodation or to find accommodation at another place at their own expenses; to enjoy the right to education equal to the citizen of Georgia; to receive medical and social assistance as provided for by the legislation of Georgia; and to enjoy the rights granted to foreign citizens by the Georgian legislation, if not otherwise envisaged by the Law on Refugee and Humanitarian Status.²⁷ Furthermore, the Law on Refugee and Humanitarian Status designates the Ministry of Internally Displaced Persons from the Occupied Territories, Refugees and Accommodation as the responsible body as regards the issues related to social and economic guarantees for refugees and persons with a special humanitarian status.²⁸

According to *the Tax Code of Georgia*, refugees and persons with humanitarian status are exempt from paying taxes for compensation received by them for their temporary residence places within the framework of the privatization program.²⁹ As in the case of IDPs, *the Law on State Budget of Georgia for 2013* provides for a monthly fixed amount per refugee and person with humanitarian status settled in the collective centers for communal expenses. Persons settled in Tbilisi receive GEL 10.2 (c. EUR 4.5) and those settled in regions – GEL 5 (c. EUR 2.2) every month.

Based on *the Edict of the Government of Georgia of 28 July 2006, No 145*, refugees and persons with humanitarian status, like IDPs, receive a status-based monthly allowance. This is allowance is for GEL 28 (c. EUR 12) for refugees and persons with humanitarian status living in private accommodation and GEL 22 (c. EUR 8) for persons living in collective centers.³⁰

²³ Adopted on 24 August 1995 (Last amended on 25 March 2013). „Sakartvelos Parlamentis Utskebebi“, 31-33, 24/08/1995.

²⁴ Article 47 of the Constitution.

²⁵ Adopted on 6 December, 2011 (Last amended on 25 May, 2012). „Sakartvelos Sakanonmdablo Matsne“, 111220009, 20/12/2011.

²⁶ Article 18.1 of the Law on Refugee and Humanitarian Status.

²⁷ Article 19.1 of the Law on Refugee and Humanitarian Status.

²⁸ Article 22.1 of the Law on Refugee and Humanitarian Status.

²⁹ Article 82.1 m) of the Tax Code.

³⁰ Article 10⁵.1 of the Edict No 145 of 28 July 2006.

Conclusion

The problem of internally displaced persons has been one of the main concerns of the Georgian state since the early nineties. While taking into account its relevance for the country, Georgia has adopted a lot of legal acts aimed at regulating issues related to the legal status of IDPs. Nevertheless, due to limited financial resources, the assistance provided to IDPs is rather modest given their needs.

As to asylum seekers, refugees and persons with humanitarian status, their legal situation is determined by several legal regimes. In general, they have the same rights as other foreigners. However, with regard to the right to education they enjoy the same rights as Georgian citizens. In terms of financial and social assistance they receive from the state, in most cases, similar amounts to the assistance received by the IDPs.

**Asylum Seekers, Refugees and Internally Displaced Persons
(IDPs) in Georgia: the Challenges of Social Cohesion**

NATIA CHELIDZE

Socio-Political Module

Introduction

Since the 1990s, Georgia has been facing one of its most severe problems: the resettlement and socio-economic integration of internally displaced persons from Abkhazia and Tskhinvali region who fled as a result of internal armed conflicts. Over the past few years, the number of IDPs has increased due to the inflow of foreign nationals seeking to obtain either a refugee or a humanitarian status. These numbers have further increased following the obligation assumed by the authorities of Georgia to repatriate the Meskhetian Turks exiled in an organized way from Georgia in 1944.

Although the definition of internally displaced persons provided in the legislation of Georgia does not include ecological migrants displaced due to the natural calamities, this explanatory note will also touch upon the issues of resettlement of eco-migrants along with the complex task of resettlement of the Meskhetian Turks and IDPs from Abkhazia and Tskhinvali region as well as the unified state approach to address their problems.

* * *

Internally Displaced Persons (IDPs)

The armed conflicts that took place in Georgia in the early 1990s were followed by a forced relocation of population from Abkhazia (in 1992-1993) and Tskhinvali region (in 1989-1992). As a result of the military aggression in August 2008, 26,000 more persons became IDPs in their own country. According to the statistics provided by the Ministry of IDPs from the Occupied Territories, Resettlement and Refugees of Georgia, over 265,000 IDPs (comprising approximately 6 percent¹ of the total number of the country's population) from the above two regions have been registered in Georgia.

The Law of Georgia on the Internally Displaced Persons from the Occupied Territories of Georgia was adopted in 1996 (#335, 28.06.1996). The same year, the Ministry of IDPs and Resettlement of Georgia that comprises two main departments, the department of the issues of IDPs and the department of migration issues, resettlement and refugees, was established.

Following the initiative of the international organizations in 1999, the approach towards the IDPs started to change, and the humanitarian aid began to be substituted gradually by the programs oriented towards development and self-sustainability. This notwithstanding, no official document was adopted until 2007, which provided a unified state approach for the solution of the problems related to the IDPs. While planning and implementing programs relevant to the IDPs, the government of Georgia, as well as international and non-governmental organizations involved in the process, lacked coordination.

On February 23, 2006, a special governmental commission was set up. The responsibilities of the commission included preparation of proposals for the purpose of elaboration of a state strategy and policy for internally displaced persons, as well as organization and coordination of the implementation of the strategy. The Ministry of Refugees and Resettlement of Georgia² was identified as the leading state agency charged with respective responsibility and coordinating functions.

¹ The number of registered IDPs as of April 2012. Available at <http://mra.gov.ge/main/GEO#section/50>, date of access September 10, 2013.

² Ministry of refugees and Resettlement was retitled the Ministry of IDPs from the Occupied Territories, Resettlement and Refugees following the Russia-Georgia war in August 2008, after Abkhazia and South Ossetia have been recognized as occupied territories by the resolution of November 17 2011 approved by the European Parliament.

The coordinated work performed by the commission resulted in the adoption of the State Strategy for Internally Displaced Persons (Governmental Decree #47, 02.02.2007). This document has identified two major goals of the state: a) Ensuring appropriate conditions for a dignified safe return and support for those IDPs, who had returned to the place of their permanent residence spontaneously; b) Ensuring the maintenance of living conditions of the displaced persons and assisting them in their integration into the public life in the country.

The Action Plan for the Implementation of the State Strategy for Internally Displaced Persons approved by the Decree N489 of the Government of Georgia on July 30, 2008 has been based on the priority needs identified as a result of the analysis of the common needs of the Organization of United Nations and the World Bank. The Action Plan is subject to an annual update, based on an independent interim evaluation.

The Action Plan has determined the creation of equal legal, political, socio-economic conditions for the IDPs and other citizens of Georgia. Despite this, the IDPs have not been fully integrated into the society. Following the armed conflicts, a certain number of IDPs settled in the compact resettlement centers, or collective centers, while the rest of IDPs have found shelter individually, including living in the apartments of their relatives, friends or in the flats either rented or purchased under the state program. Nowadays, approximately 45% of the IDPs reside in the collective centers while the remaining 55 % live in the residential spaces obtained individually. A majority of IDPs live in the territory adjacent to the zone of conflict- in Megrelia Region (34%), Gori District (6%), Imereti Region (10%) and Tbilisi (37%). The rest of the IDPs have scattered across the entire territory of Georgia.³

The IDPs residing in the compact settlements are less integrated into the local community. Around two fifth of them maintain relationships mainly with the displaced families. The situation is rather different with the IDPs living in the private settlements where only a small portion of the IDPs interact with the IDPs mainly, while the rest of IDPs interact with the local population. School-age children (96% of whom go to public schools) are well integrated⁴ throughout the entire country. There have been some cases of confrontation between the IDPs resettled on the territories inhabited by ethnic minorities and the local community because ethnic minority representatives feel threatened by the newcomers.⁵

The housing conditions for the considerable section of the IDPs are still rather poor both in terms of residential space and living conditions. The problem of unemployment has been especially severe amongst the internally displaced persons. Throughout the country, only 31% of the displaced working-age population has been employed. Respectively, displaced families have been characterized by a high intensity of labour migration.⁶ The duration of labour migration is rather long, with migrants from the displaced families remaining in migration for some 8,2 years on average.⁷

Most donors (GIZ, CARE, USAID, EU, SIDA, UNDP, DRC, UNCHR, TIKa, etc.) cooperate actively with the government of Georgia in order to achieve the goals set forth in the Action Plan. They have been engaged into several major projects, which, inter alia, include the following: the rehabilitation of collective residential centers for the IDPs; construction of individual cottages and new dwelling houses; purchase of private houses in rural areas; rehabilitation of temporary shelters; granting monetary compensations; legal consultations; strengthening of local civic organizations; awarding small grants for entrepreneurial activities; restoration of infrastructure; implementation of

³ Introduction to the State Strategy for IDPs. Ministry of IDPs from the Occupied Territories, Refugees and Resettlement of Georgia. Available at http://mra.gov.ge/UploadedFiles/strategy/State_Strategy_on_IDPs_GEO.pdf date of access September, 2013.

⁴ On the living and socio-economic conditions of internally displaced persons. SIDA-DRC, 2008. (Geo.)

⁵ Baseline Survey of the IDP Settlements and their Neighbouring Communities in Kvemo Kartli and Shida Kartli. For: Stabilization and integration of IDPs into mainstream Georgian Society Project (SIIMS). CARE, CRRC, 2009 (Geo, Eng).

⁶ *Internally Displaced Persons in the Georgian Labour Market*. Migration Research Center. Tbilisi, 2012.

⁷ *On the living and socio-economic conditions of internally displaced persons*. SIDA-DRC, 2008.(Geo.)

vocational training and retraining programs, medical programs and programs for psychological and social assistance; provision of services related to social housing; conduction of an awareness raising campaign, and the increase of the involvement of IDPs.

Despite the efforts made by the authorities of the country and the international community, only one third of the IDPs express satisfaction with the results of the long-term resettlement today. Respectively, this general disappointment is followed by social passivity, lack of initiative and dependence on the external assistance amongst the majority of the IDPs. This has been a major problem in terms of both their social integration and their prospective return to the places of permanent residence.

Eco-migrants

In 1998, the UN Guiding Principles on internal Displacement proposed a definition of IDPs that also includes individuals affected by natural calamities. The issue of persons displaced due to ecological reasons has been part of the international normative framework; however, the legislation of Georgia does not consider natural disasters to be a sufficient ground for granting the status of an IDP.

Nowadays, international donor organizations tend to pay little attention to the issue of ecological migration. Although, the UNHCR has set caring for the individuals displaced due to ecological reasons as one of its areas of activity in the future regardless of the fact that the current mandate of the UNCHR with respect to refugees and IDPs does not consider attending to the needs of the individuals displaced as a result of natural calamities. Today, only the Ministry of Internally Displaced Persons from the Occupied Territories, Resettlement and Refugees of Georgia and several non-governmental organizations, inter alia, the Union for the Development of Civic Society “Borjgalo” and the Caucasus Environmental NGO Network (CENN)⁸ are working on the issues of ecological migration in Georgia.

In the early 1980s, the resettlement of eco-migrants used to be performed by the Soviet government in a relatively more organized manner by applying sufficient resources required for solving the problems of this category of displaced persons. In order to strike out a demographic balance, in the early 1990s eco-migrants had been resettled to the borderline territories and the regions inhabited by ethnic minorities. The issue of eco-migrants had been totally ignored in the subsequent period i.e. following the first years of independence (1992) and up to the Rose Revolution in 2003⁹, when a number of major measures had been undertaken in order to address the problems of eco-migrants. The year 2006 saw the creation of an information database for the families affected by natural disasters and facing the urgency to be resettled immediately. There has also been introduced a system for the assessment of the indemnity assistance for the eco-migrants based on the conclusions drawn by geologists. The system applied the following assessment criteria, which are applicable even today: 1. A destroyed house; 2. A damaged house; 3. A damaged house that could be repaired; 4. Only the land adjacent to the house had been damaged. Those who are placed under the first category are subject to resettlement by the state.

According to the data provided by the Ministry of Internally Displaced Persons from the Occupied Territories, Resettlement and Refugees of Georgia, 37,000 households (the residential spaces of over 11,000 amongst which belong to the first and second categories i.e. either have been destroyed or are unsuitable for living) have been registered on the list of households subject to resettlement.¹⁰ Based on

⁸ Justin Lyle. *Resettlement of Ecological Migrants in Georgia: Recent Developments and Trends in Policy, Implementation, and Perceptions*. ECMI, 2012. (Eng., Geo)

⁹ Trier T., Turashvili M. *Resettlement of Ecologically Displaced Persons Solution of a Problem or Creation of a New? Eco-Migration in Georgia 1981-2006*. ECMI, 2007. (Eng., Geo)

¹⁰ *Eco-migration – challenge for Georgia*. Elene Khachapuridze. 19.01.2012. News Portal www.netgazeti.ge Available <http://netgazeti.ge/GE/89/Life/7827/> date of access September, 2013.

the data submitted by the Department of Resettlement of the Ministry, the authorities of Georgia can afford to resettle up to 100 eco-migrant households; however, given the existing lack of financial and human resources, the resettlement activities are carried out rather spontaneously, which hinders considerably the adaptation process following the resettlement. This, in its turn, often becomes one of the factors encouraging the return to the place of original residence; due to confrontations with the local community or unbearable living conditions, the eco-migrants tend to come back frequently.

This year, the government of Georgia has prioritized on its agenda the necessity of legal regulation of problems of eco-migrants.¹¹ Together with non-governmental organizations, the Ministry has drafted a document for the resettlement policy of eco-migrants upon which to base the preparation of legislative amendments concerning the persons displaced on the ecological grounds, and the elaboration of a strategy for the resettlement of eco-migrants.

Asylum Seekers, Refugees and Humanitarian Status holders

Refugees have appeared in Georgia since 1994; however, until 1999, their number had been very small until.

After the armed conflict in Chechnya resumed in 1999, some 9,000 Chechen refugees fled from the Russian Federation to Georgia and settled in the Pankisi gorge.¹² Most refugees were ethnic Chechens and the Kists. The reason for deciding to settle in Pankisi was related to the fact that this territory had been inhabited primarily by the ethnic Kists. In addition, the IDPs were allowed to settle in Georgia only in the areas offered by the Ministry of Refugees and Resettlement of Georgia.¹³ Since requests for obtaining a refugee status had become massive in its character, the authorities of Georgia made a *Prima facie* decision on granting such status collectively. This resulted in granting some 9,000 individuals a refugee status in 1999.

The responsibility for the socio-economic provision of the refugees in Georgia was assumed by the UNCHR, which used to supply the refugees with food up until 2007. This was later substituted by monetary allowance. In 2007, the Ministry of Refugees and Resettlement set up its representative office in Duisi village (Akhmeta district) that made it easier for the refugees to communicate with the Ministry and enabled to address some problems more rapidly. In the early 2007, a temporary residence permit was issued for the refugees registered in Georgia. The year 2009 saw the issuance of travel documents for the refugees considered under the 1951 Geneva Convention on the Status of Refugees.

Under the joint program „Local Integration and Protection of Refugees and Asylum Seekers“ initiated by UNCHR and the Ministry of Georgia, residential spaces were purchased for the refugees and small grants were awarded for undertaking small-scale entrepreneurial activities. Nowadays, some 250 Chechens with a refugee status reside in Pankisi gorge, while some 600 refugees have obtained Georgian nationality, thus obtaining a freedom of movement.¹⁴

Over the past few years, Georgia saw an increase in the number of asylum seekers from Iraq, Syria, Egypt, Nigeria, Tunis and Iran (599 asylum seekers applied to the Ministry in 2012 and 469 - in 2013¹⁵). The Ministry has reviewed each application individually. During the consideration period, the

¹¹ *The problems of eco-migrants were a topic of discourse at the Supreme Council of Adjara*. 09.07.2013. Available <http://www.ajaratv.ge/ge/?page=shownews&id=49556> date of access September, 2013.

¹² *Silence kills: infringement of the rights of Chechen refugees in Georgia*. HRIDC, CORDAID-Netherland, NHC, NED-USA. 2006.(Geo.)

¹³ Only a small number of the Chechen refugees reside in Tbilisi, the capital.

¹⁴ An interview with Irakli Kokaia, the head of the unit of refugees and repatriation, department of Migration, Refugees and Resettlement, Ministry of IDPs from the Occupied Territories, Refugees and Resettlement, in the office in August 2013.

¹⁵ An interview with Irakli Kokaia, in the office in August 2013.

asylum seeker can find shelter in the Ministry-affiliated special center, which has the capacity to accommodate 60 asylum seekers. This establishment has been organized in Martkopi village, Gardabani Municipality in June 2010 under the joint project carried out by the Ministry for Internally Displaced Persons from the Occupied Territories, Resettlement and Refugees and the UNCHR.¹⁶ Based on the data provided by the Ministry, only rare applications for obtaining asylum are approved (e.g. 24 out of all the applications made in 2012 resulted in granting the status of refugee, while only 29 individuals received humanitarian status).¹⁷

The Tbilisi Mission of the International Organization for Migration (IOM) collects statistics for the applications made by the Georgian nationals for obtaining asylum. According to the 1990-2012 data of the IOM, a total number of 116,795 applications have been submitted by asylum seekers in Europe, the US, Canada and Australia (including 24,395 in Germany, 14,487 in France, 11,852 in Greece, 10,539 in Poland and 10,203 in Austria). According to the information provided by the IOM program coordinator, the applications made by asylum seekers used to be satisfied, more or less, in the early 1990s; however, the rate of satisfaction does not seem to exceed 5% over the past decade. The representatives of the Ministry of Internally Displaced Persons from the Occupied Territories, Resettlement and Refugees do not have the information on the Georgian refugees and, respectively, have not identified a mechanism for taking measures with respect to them.

Repatriation of the Meskhetian Turks to Georgia

In order to protect the state border with Turkey, over 100,000 people were resettled from the southern region of Georgia in 1944. The most numerous amongst the deported groups were the Muslim Turkish-speaking persons residing in Meskheta (Samtskhe-Javakheti). A smaller group of the deported persons consisted of Hamshenis (Armenian-speaking Muslims), Muslim Kurds from Adjara and the Karapapakhs (a nomadic Turkic-speaking sub-ethnic tribe of Azerbaijanis). Nowadays, 400,000 Meskhetian Turks reside worldwide, scattered in nine countries (including former Soviet Union republics and beyond): Kazakhstan (137,000), Kyrgyzstan (33,000), Uzbekistan (20,000), Azerbaijan (100,000), the Russian Federation (75,000), the Ukraine (10,000), Turkey (35,000) and the United States (12,000).¹⁸

Having passed beyond the legal framework for repatriation in Georgia, a small number of the Meskhians (approximately 125 families¹⁹) returned on its own initiative to Georgia before 2006. Many of them have managed to obtain the Georgian nationality, thus making their residence in the country legal. Their socio-economic and political integration into the local community occurred without any confrontations.

In 1999, upon joining the Council of Europe, Georgia has assumed the obligation to provide for the repatriation of the Meskhians deported during the World War II until 2012. The Parliament of Georgia adopted the Law of Georgia (N5261, 11.07.2007.) on the Repatriation of the Persons Deported by the Former Soviet Union from the Soviet Republic of Georgia in the 1940s only in July 2007. From the theoretical point of view, the law is dealing with every person and his/her descendants deported from Georgia in the 1940s. After the adoption of the law, the gathering of applications from those deported

¹⁶ *Migration in Georgia - Overview and Recommendations*. „AENEAS“ Programme for creation reliable mechanism of migration in Georgia. ICMPD, Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, DRC, EC.2007. (Geo)

¹⁷ The Law of Georgia on the Refugees adopted in 1998 was not in compliance with the Vienna Convention of 1951 on the Status of Refugees. By the joint efforts of the Ministry and UNCHR, the law of Georgia (#5370, 06.12.2011.) on the Refugee's and Humanitarian Statuses was drafted and adopted in 2011.

¹⁸ *Supporting the Repatriation of Persons Deported from Georgia in the 1940s and their Descendants*. Available <http://www.repatriation.ge/index.php?m=30> date of access September, 2013.

¹⁹ At the same web-site
http://www.repatriation.ge/uploads/ACF-ECMI_Repatriation_Support_Programme_Brochure.pdf

or their descendants has started in order to obtain the status of a repatriate. The Ministry of the Internally Displaced Persons from the Occupied Territories, Resettlement and Refugees of Georgia is responsible for this process. The Ministry has received 5,841 applications filled by families (approximately, 9,350 individuals) that wish to return to Georgia. According to the data provided by the Department of Refugees and Repatriation of the Ministry, some 1,248 applicants have been granted the status of a repatriate.²⁰

Despite the intention of the Meskhians to return to the homeland of their ancestors, the available small number of received applications refers to the fact that the number of individuals who consider returning to the country is far smaller. The final decision is heavily influenced by a number of actual obstacles they are facing, which, inter alia, include: resettlement expenses to be incurred by each family; expenses associated with submitting an application; legal impediments for obtaining the status of a repatriate; complicated access to social services (education, healthcare, social security, etc.); lack of awareness of the living conditions available in Georgia; obscure opportunities for obtaining employment or any other source of income required for decent living.

In order to facilitate the repatriation of the Meskhetians, several non-governmental organizations (“Vatan“, “Khsna“, “Ahiska“, “World Congress of the Meskhetians“, “Union of Georgian Repatriates“, “Youth Union of the Meskhetians in Georgia“, etc.) were established in the 1990s.²¹ Despite their efforts taken, there has been an extremely poor public awareness in Georgia with respect to the rights and repatriation process of the deported population. Many people in the country tend to approach rather negatively the prospective return of the Meskhetians. Similar opposing attitudes dominate especially in the Samtskhe-Javakheti region,²² where the ethnic Georgians and Armenians resettled to the former abodes of the Meskhetians and who are afraid of the possible additional pressure that could be exercised upon the local community in terms of infrastructure and land as a result of resettlement of the Meskhetians. According to them, this resettlement might lead to an increased risk of confrontations.

In order to help prevent the emergence of potential discord and ethnic disagreement over the land, in March 2011 the government of Georgia has set up an interagency governmental council for the repatriation process²³.

In cooperation with the authorities, international actors are carrying out special programs for facilitating the repatriation and raising public awareness. One of the major initiatives undertaken is the Program Supporting the Repatriation of Persons Deported from Georgia in the 1940s and their Descendants implemented jointly by Acción contra el Hambre (ACF), Spain, and the European Centre for Minority Issues – Caucasus. The activities under the program are carried out in various regions of Georgia, including, inter alia, Tbilisi, Imereti, Guria and Samtskhe-Javakheti; also in Saatli and Sabirabad regions- Azerbaijan, Turkey and other countries where the deported persons reside currently²⁴.

The Public Defender’s Office of Georgia and the appropriately planned activities by the mass media also make a considerable contribution to the formation of a positive attitude in the society of the country with respect to the repatriation of the Meskhetian Turks.

²⁰ An interview with Irakli Kokaia, head of the unit of refugees and repatriation, department of Migration, Refugees and Resettlement, Ministry of IDPs from the Occupied Territories, Refugees and Resettlement, in the office in August 2013.

²¹ Trier T., Tarkhan-Mouravi G., Kilimnik F. *Meskhetians: Homeward Bound*. ECMI, 2011 (geo.)

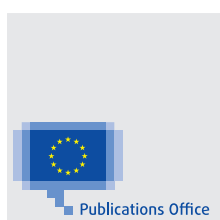
²² *Meskhetian Integration in Georgia and the Approach of the Society to this Issue*. ECMI-Caucasus, CRRC, EU, ACF, 2012 (Geo.)

²³ Resolution of the Government of Georgia #111 as of March 1 2011 on the Approval of the Composition and Charter of the Interagency Governmental Council for Repatriation of the Persons Deported by the Former Soviet Union from the Soviet Republic of Georgia in the 40s of the XX Century.

²⁴ *Supporting the Repatriation of Persons Deported from Georgia in the 1940s and their Descendants*. Available <http://www.repatriation.ge/index.php?m=30> date of access September, 2013.

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